

THE FORENSICS FILES

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Resolved: When in conflict, human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy.

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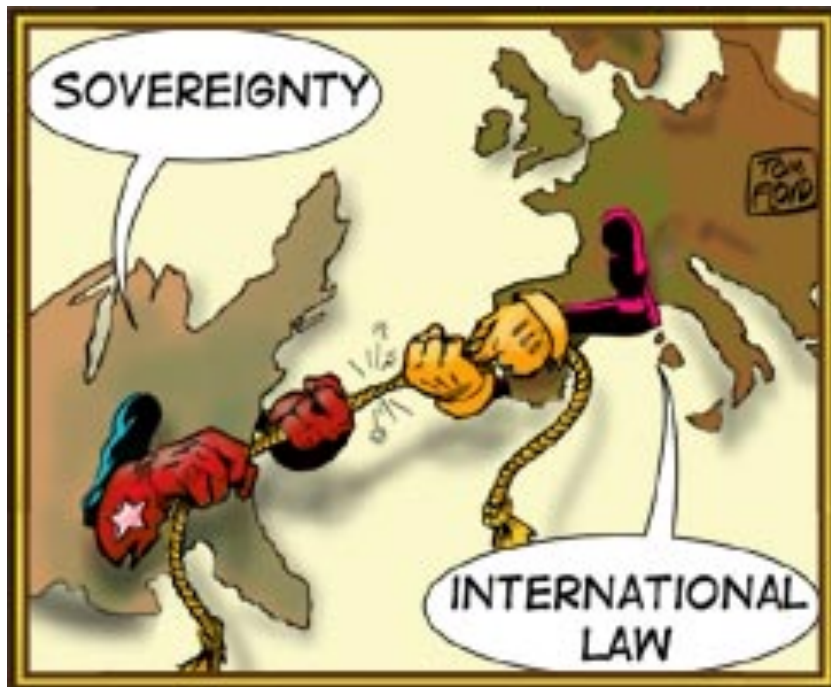


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TOPIC OVERVIEW

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Resolved: When in conflict, human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy.

I. TOPIC ANALYSIS

This topic fundamentally concerns how the United States (US) should prioritize foreign policies objectives. In this topic analysis, TFF analyzes the wording of the topic because the University Interscholastic League decided to pick this topic and chose this wording, and schools and students implicitly agree to the topic and wording by competing at UIL tournaments in Spring 2015. Therefore, any discussion about what this topic is about necessarily must start with the topic wording. Important to any such discussion is the particular words and phrases used. Sometimes more important to discussions about what the topic is what is not in the resolution. So let's start with the words and phrases.

A. "When in Conflict"

The first term (after "resolved") is "When in conflict." This phrase frequently appears in Lincoln-Douglas debate topics, and it usually appears when a topic might, without the phrase, be overly favorable to one side or the other. Let's read the resolution without "When in conflict": "Human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy." With that wording, either side (affirmative or negative) arguably could claim that their side's foreign policy conduct (protecting human rights or respecting state sovereignty) would not need to come at the expense of the other. For example, without the phrase "When in conflict," an affirmative case could rightly argue that protecting human rights was good and, in

response to arguments that respecting state sovereignty is good, claim that protecting human rights does not need to come at the expense of state sovereignty; thus, we can protect human rights only when it wouldn't conflict with state sovereignty. The negative, conversely, could put forth the same sort of argument with regard to respecting state sovereignty; respecting state sovereignty is good and would not need to come at the expense of allowing states to violate human rights. If both sides argued that they could achieve the benefits of both human rights and sovereignty by arguing around incidents when the two might come into conflict, this would make it nearly impossible for a judge to fairly evaluate the round based on just the arguments the debaters present. Thus, the phrase "when in conflict" requires the debaters to weigh the foreign policy conduct of protecting human rights directly against the foreign policy conduct of respecting other states' sovereignty.

B. "Human Rights Protection"

The next phrase for analysis is "human rights protection." "Human rights" appears to modify "protection." "Protection" is "the action of protecting someone or something, or the state of being protected" according to the Oxford English Dictionary online, which is the primary dictionary used by Google.com, and "protect" is "to keep safe from harm or injury." Furthermore, "human rights" are those "believed to belong justifiably to every person." Thus, "human rights protection" with regard to U.S. foreign policy conduct is the U.S.'s action of keeping safe the rights believed to belong justifiably to every person.

The U.S. Department of State (or "State Department"), which is the Department in the Executive Branch that assists the President with foreign policy matters, [explains](#) the importance of human rights protections as part of the U.S. foreign policy:

The protection of fundamental human rights was a foundation stone in the establishment of the United States over 200 years ago. Since then, a central goal

of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the Universal Declaration of Human Rights. The United States understands that the existence of human rights helps secure the peace, deter aggression, promote the rule of law, combat crime and corruption, strengthen democracies, and prevent humanitarian crises. Because the promotion of human rights is an important national interest, the United States seeks to: Hold governments accountable to their obligations under universal human rights norms and international human rights instruments; Promote greater respect for human rights, including freedom from torture, freedom of expression, press freedom, women's rights, children's rights, and the protection of minorities; Promote the rule of law, seek accountability, and change cultures of impunity; Assist efforts to reform and strengthen the institutional capacity of the Office of the UN High Commissioner for Human Rights and the UN Commission on Human Rights; and Coordinate human rights activities with important allies, including the EU, and regional organizations.

You might notice that absent from the State Department's description of U.S. foreign policy regarding human rights protections is any mention of state sovereignty. Rather, the description of this foreign policy objective states that the U.S. seeks to "[h]old governments accountable to their obligations under universal human rights norms," suggesting that the U.S. currently prioritizes human rights protection over other states' sovereignty. The State Department's description of U.S. human rights protection includes three key principles. It:

1. "strives to learn the truth and state the facts,"
2. "takes consistent positions concerning past, present, and future abuses," and
3. "forges and maintains partnerships with organizations, governments, and multilateral institutions committed to human rights."

These three principles could provide not only insight as to how the U.S. conceives human rights protection in the conduct of its foreign policy, but also ideas for how to respond to potential criticisms of U.S. human rights protection.

Peeking ahead the structure of the rest of the resolution, we can tell that "human rights protection" is the primary source of affirmative arguments. If a debater is scheduled to debate on the affirmative side of this topic, the debater must argue that human rights protection is good.

This will require debaters to also have a good understanding of what “human rights” are. The State Department’s explanation of its policy on human rights protection does not really give examples of “human rights” that should be protected. However, it does state, “[A] central goal of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the *Universal Declaration of Human Rights*.” This tells us that the U.S. legally bases its definition of “human rights” on the Universal Declaration of Human Rights (or the UDHR).

The UDHR is considered law adopted by the United Nations (or U.N.), an international organization to which the United States is a both member and councilmember. The U.N. [explains](#) the background of the UDHR:

The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10 December 1948, was the result of the experience of the Second World War. With the end of that war, and the creation of the United Nations, the international community vowed never again to allow atrocities like those of that conflict happen again. World leaders decided to complement the UN Charter with a road map to guarantee the rights of every individual everywhere. The document they considered, and which would later become the Universal Declaration of Human Rights, was taken up at the first session of the General Assembly in 1946. The Assembly reviewed this draft Declaration on Fundamental Human Rights and Freedoms and transmitted it to the Economic and Social Council "for reference to the Commission on Human Rights for consideration . . . in its preparation of an international bill of rights." The Commission, at its first session early in 1947, authorized its members to formulate what it termed "a preliminary draft International Bill of Human Rights". Later the work was taken over by a formal drafting committee, consisting of members of the Commission from eight States, selected with due regard for geographical distribution.

The UDHR contains thirty individual Articles, considered “international law,” that each contains at least one, and sometimes more, human rights that are considered “universal.” The University of Minnesota has done us the favor of [listing](#) out a description of those rights:

Article 1: Right to Equality
Article 2: Freedom from Discrimination
Article 3: Right to Life, Liberty, Personal Security
Article 4: Freedom from Slavery
Article 5: Freedom from Torture and Degrading Treatment

Article 6: Right to Recognition as a Person before the Law
Article 7: Right to Equality before the Law
Article 8: Right to Remedy by Competent Tribunal
Article 9: Freedom from Arbitrary Arrest and Exile
Article 10: Right to Fair Public Hearing
Article 11: Right to be Considered Innocent until Proven Guilty
Article 12: Freedom from Interference with Privacy, Family, Home and Correspondence
Article 13: Right to Free Movement in and out of the Country
Article 14: Right to Asylum in other Countries from Persecution
Article 15: Right to a Nationality and the Freedom to Change It
Article 16: Right to Marriage and Family
Article 17: Right to Own Property
Article 18: Freedom of Belief and Religion
Article 19: Freedom of Opinion and Information
Article 20: Right of Peaceful Assembly and Association
Article 21: Right to Participate in Government and in Free Elections
Article 22: Right to Social Security
Article 23: Right to Desirable Work and to Join Trade Unions
Article 24: Right to Rest and Leisure
Article 25: Right to Adequate Living Standard
Article 26: Right to Education
Article 27: Right to Participate in the Cultural Life of Community
Article 28: Right to a Social Order that Articulates this Document
Article 29: Community Duties Essential to Free and Full Development
Article 30: Freedom from State or Personal Interference in the above Rights

If you have taken government, or are otherwise familiar with the Bill of Rights of, and subsequent amendments to, the U.S. Constitution, you might notice that there is some overlap between the fundamental freedoms recognized by the United States in our own constitution. These include the right of expression (speech and press), religion, equality, procedural due process, substantive due process (privacy, including the right to marry), etc. Thus, the affirmative ground will be arguing that U.S. foreign policy should promote protection of these rights. The negative side should be prepared to respond to such arguments.

C. "Ought"

The next important term in the resolution is the word "ought." At your first glance, you might not have thought that the word "ought" is significant. But Lincoln-Douglas Debate

resolutions frequently contain the word “ought,” and the word is significant for several reasons. First, it makes the resolution a “normative” statement. A normative statement is a statement that suggests what one should or should not do. For example, “You should brush your teeth every day,” is a normative statement because it suggests what you should do: brush your teeth every day. Normative statements are sometimes phrased as evaluative statements. An evaluative statement is a statement that says something is good or bad. For example, we could phrase the normative statement above (about brushing your teeth) as an evaluative statement as follows: “Brushing your teeth every day is good” or “Not brushing your teeth every day is bad.” Conversely, we could phrase an evaluative statement as a normative statement: “You should not brush your teeth less than once a day.”

Normative and evaluative statements can be distinguished from “descriptive” or “empirical” statements. A descriptive or empirical statement describes something that has happened, does happen, is currently happening, or will happen in the future. For example, “I brush my teeth once a day,” is a descriptive term because it describes something that happens. a descriptive statement “I brush my teeth once a day,” does not necessarily imply an evaluative or normative statement. Another example of a descriptive statement is, “I sometimes skip school.” Just because I skip school is descriptive of what I do, does not necessarily mean that I *should* skip school.

This all goes to show that “ought” is very important in the resolution because it is frequently considered a normative term, frequently interchanged with the word “should.” Therefore, we can conclude that the word “ought” in the resolution makes the resolution a normative statement about U.S. foreign policy. And from a normative statement we can infer an evaluative statement. If you say the word “evaluative” out loud, you might notice that a core

Lincoln-Douglas Debate concept can be heard in the word “evaluative”: E-“value”-uh-tive. As you might have guessed (or know already if you are an advanced debater), the strongest values are derived from the word “ought” because by virtue of being a “normative” term implies a value: “good” rather than “not bad”; “right” rather than “not wrong”; “just” rather than “unjust”; and “moral” rather than immoral.

Therefore, to discern the best value for a resolution, such as this one, that uses the word “ought” it is important to know how “ought” is defined. One definition of “ought” might seem to contradict the conclusion that “ought” is an evaluative term: “used to indicate something that is probable.” One might argue (and some debaters frequently do argue) that this makes the resolution a descriptive statement because it is making a prediction about what will happen in the future, and according to the definition of descriptive statements, they can describe what will happen in the future. Using this definition of “ought” requires taking the word out of context. In your English classes you might have learned that you can infer the meaning of a word from “context clues.” One important piece of contextual information missing from an argument that “ought” is descriptive (or predictive of a future occurrence) is that Lincoln-Douglas debate is about conflict value statements, and thus, normative and evaluative interpretations of the resolution are generally preferred to descriptive statements.

The other, more commonly accepted definition of “ought” in Lincoln-Douglas debate is “used to express obligation.” Obligations can arise legally (I have the legal obligation to pay taxes), morally (I have the moral obligation to help others in need), and socially (I have an obligation to attend my friend’s party). Thus, from the definition of the word “ought” we can develop a list of “values” that would be strong to build cases around: justice and morality. Justice tends to have more of a legal connotation, but can be used to describe what is morally right; and

morality necessarily is a moral concept, but many have argued (as early as Socrates) that it is immoral to violate the law. The better value can ordinarily be determined by additional context clues, and the best context clues are the other words and phrases in the resolution. So let's move on.

D. "Supersede"

The term "supersede" is important because, as mentioned earlier, it informs the debaters about what side will be arguing what concepts in support of their position. "Supersede" means "to take the place of." This means the resolution requires the affirmative side to argue that "human rights protection" ought to "take the place of" state sovereignty. The word "supersede" seems to further stress the introductory phrase to the resolution, "when in conflict," in reinforcing the idea that human rights protection must take the place of how the U.S. respects state of sovereignty; thus, debaters should follow the context clue and not risk getting involved unnecessary topicality arguments.

This is a good point to mention, since it's been mentioned to twice, that the conflict between "human rights protection" and "state sovereignty" (which will be discussed next) does not necessarily mean that one side cannot argue that respecting state sovereignty is good for promoting human rights or conversely that human rights somehow promotes respect for state sovereignty. However, those arguments should be carefully framed so as to not confuse the judge (or allow the other side to "turn" the arguments) by actually promoting the other side's concept (human rights or sovereignty).

E. "State Sovereignty"

Based on the preceding discussion, it probably does not need to be said but "state sovereignty" is the concept that the negative side must argue is good. The negative must compare

“state sovereignty” to “human rights protection” and argue either (1) why the affirmative has failed to prove that human rights protection ought to be prioritized above state sovereignty or (2) why state sovereignty should not be superseded by human rights protection.

According to the State University of New York (SUNY), “state sovereignty” is [explained](#) as: “State sovereignty is the concept that states are in complete and exclusive control of all the people and property within their territory. State sovereignty also includes the idea that all states are equal as states. In other words, despite their different land masses, population sizes, or financial capabilities, all states, ranging from tiny islands of Micronesia to vast expanse of Russia, have an equal right to function as a state and make decisions about what occurs within their own borders. Since all states are equal in this sense, one state does not have the right to interfere with the internal affairs of another state.”

The explanation of state sovereignty might shed more light on its conflict with the U.S. human rights protection. If the U.S. absolutely respects state sovereignty, this means that the U.S. cannot disrespect other nations’ decisions to violate what the UDHR would consider violations of human rights. Undermining other nations’ decisions to violate their people’s human rights, would conflict with both the first principle of sovereignty (essentially that the nation has final say over how it treats its people) and the second principle of sovereignty (that the U.S. is not superior to any other nation because all nations are equal).

Unlike human rights, which include what many would consider good things people should have, the benefits of state sovereignty are a little less intuitive than human rights. One way to start thinking about the benefits of state sovereignty is to consider the value of having other states respect the United States’ state sovereignty. Consider having other countries intervene into the US because they did not like our human rights records, perhaps with regard to

Articles 24 and 26 of the UDHR regarding “Rest and Leisure” and “Education.” This might (1) not solve the problem and secure the rights of all people in the US have rest and leisure and a good education; and (2) it might make the U.S. likely make a violent military response. Those are just some thoughts to help start thinking about the benefits of state sovereignty with regard to other countries.

F. “In the Conduct Of”

The resolution also contains the phrase “in the conduct of.” “Conduct” means “the manner in which a person behaves, especially on a particular occasion or in a particular context.” Conduct is frequently distinguished from just words, threats, or speech; it refers to actual action. On the other hand, many would consider the way one speaks as “conduct.” Thus, the phrase “in the conduct of” has a potentially limiting function of requiring the affirmative or negative side to defend more than just diplomacy, which is when diplomats discuss issues rather than actually act on the issues. However, because diplomacy arguably includes “conduct,” this might not be convincing to all judges.

G. “United States foreign policy.”

The last phrase identifies the agent of action: the United States. This means that the debate will need to center on what the United States ought to do, rather than what other country or organization ought to do. This narrows the debate a little further by requiring the debates to argue the pros and cons of human rights protection and state sovereignty specifically in U.S. conduct, rather just generally. The word “foreign” does not really do much to further limit the topic other than to distinguish the policy from domestic policy. This really does not accomplish much in terms of adding further limits on the topic because state sovereignty usually involves

other countries. The one possible way it could limit the topic would be to limit out cases about Native American territories, which are *sometimes* considered part of the U.S.'s domestic policy.

E. Contexts vs. Theory

One way in which debaters might approach this topic differently is the methodology in which they construct their cases to address the topic question. The two most likely methodologies are a theoretical methodology and a context-specific methodology. The “context specific” methodology is when a debater highlights a specific context and argues that the resolution is true or false in that specific context. The theoretical methodology is when a case will argue that as a general matter, human rights protection ought to supersede state sovereignty in theory. Such cases might even provide specific examples to show why the theoretical arguments are likely true or false. For example, one theoretical argument might be that if the U.S. doesn't protect human rights than genocide could happen, and provide an example of Rwanda and the Holocaust.

The more difficult contextual cases to address will be cases, usually on the affirmative that identify one specific context, and argue that the resolution is true because of that context. For example, the affirmative might provide the example of Darfur in Sudan and argue that the US should intervene. The affirmative case might respond to general negative cases or context specific negative cases with an argument such as “the case/argument isn't specific to my case about Sudan.” Some judges will buy this context-specific approach to the topic and others won't but debaters should be prepared for it.

II. THE AFFIRMATIVE

The affirmative has several options when considering how to approach this topic, as discussed above. We offer two cases in this File. The first case is a morality case based on Kant's

categorical imperative. The evidence in the case describes the moral framework that obligations must be universal (i.e. categorical) rather than conditional or “hypothetical.” The case gives the example that a universal moral obligation is to treat every human as an end in themselves and never as means. This is a categorical imperative because people should never be treated as less than human. The main contention-level offense in the case is that human rights ensure people are not treated as means to ends. Contention 2 shows sovereignty is just a tool to ensure self governance, but not necessary to treat people as ends in themselves. It concludes with a Kant card saying that the benefits of “sovereignty” (like prevention of war, etc.) the neg might claim can be achieved through other means (like a peace treaty).

The second case is that in the conduct of U.S. foreign policy, international law requires human rights protection over state sovereignty. This topic is necessarily about policy which is governed by law; so it takes a policy approach in terms of what the US *legally* ought to do. The contentions show the US has the obligation to prioritize human rights protection by virtue of its international agreements and treaties. Furthermore, the second contention shows how sovereignty interferes with international legal obligations, and the third card shows that states legally consent to their sovereignty being violated when they participate in the international arena.

III. THE NEGATIVE

The negative also has several options when considering how to approach this topic; we cover two policy-based considerations. The first case is a consistency affirmative that argues the US should be consistent in its foreign policy. The contentions show that the US has never really been able to consistently enforce human rights norms internationally; and the second contention

shows that even if the US wanted to, it lacks the resources to fight for all human rights in every country.

The second negative case takes a similar approach but instead of arguing consistency it argues self-sustainability. Obviously, if the US's foreign policy is unsustainable, then it will collapse on itself. If there is not viable foreign policy to achieve, the US cannot protect state sovereignty or human rights. The case shows that the policy of prioritizing human rights is unsustainable in the current realm of international politics. However, it is not unsustainable to do nothing; this allows us to target our resources toward problems at home.

Those are the cases from our File. With the topic analysis addressing the various interpretations of the topic and the related big issues in the context of human rights and state sovereignty, you should have a good idea about how to start preparing for tournaments. Best of luck from The Forensics Files this spring!

Definitions

Resolved: When in conflict, human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy.

Conflict

- 1 A serious disagreement or argument, typically a protracted one:
- 2 A prolonged armed struggle:
- 3 An incompatibility between two or more opinions, principles, or interests:

Source: Oxford Dictionary 2014

Conflict

- 1 A state of disagreement or disharmony between persons or ideas;
- 2 A state of disagreement or disharmony between persons or ideas; a clash
- 3 Opposition between characters or forces in a work of drama or fiction, especially when motivating or shaping the action of the plot
- 4 To be in or come into opposition; differ.

Source: American Heritage Dictionary of the English Language 2014

Conflict

- 1 a struggle for power, property, etc.
- 2 strong disagreement between people, groups, etc., that results in often angry argument
- the state of having your weight spread equally so that you do not fall
- 3 a difference that prevents agreement : disagreement between ideas, feelings, etc

Source: Merriam-Webster 2014

Human Rights

- 1 The basic rights and freedoms to which all humans are considered to be entitled, often held to include the rights to life, liberty, equality, and a fair trial, freedom from slavery and torture, and freedom of thought and expression.

Source: American Heritage Dictionary of the English Language 2014

Human Rights

1 the rights of individuals to liberty, justice, etc

Source: Collins English Dictionary 2014

Human Rights

1 rights (as freedom from unlawful imprisonment, torture, and execution)
regarded as belonging fundamentally to all persons

Source: Merriam-Webster's Dictionary 2014

Protect / Protection

1 Keep safe from harm or injury

Source: Merriam-Webster 2014

Protect / Protection

1 To keep from being damaged, attacked, stolen, or injured; guard.
2 To keep from being subjected to difficulty or unpleasantness
3 To keep from being curtailed or exposed to risk

Source: Oxford Dictionary 2014

Protect / Protection

1 to keep (someone or something) from being harmed, lost, etc.
2 to save (someone) from financial loss caused by fire, injury, damage, etc.

Source: American Heritage Dictionary of the English Language 2014

Ought

1 a law or rule that limits or controls something
2 the act of limiting or controlling something

Source: Merriam-Webster's Online Dictionary 2014

Ought

1. Used to indicate obligation or duty
2. Used to indicate advisability or prudence
3. Used to indicate desirability
4. Used to indicate probability or likelihood

Source: American Heritage Dictionary of the English Language 2014

Ought

1. to indicate duty or obligation
2. to express prudent expediency
3. to express probability or expectation
4. to express a desire or wish on the part of the speaker

Source: Collins English Dictionary 2014

Supersede

- 1 Take the place of (a person or thing previously in authority or use); supplant:

Source: Oxford English Dictionary 2014

Supersede

- 1 to take the place of (someone or something that is old, no longer useful, etc.) : to replace (someone or something)

Source: Merriam-Webster's Online Dictionary 2014

Supersede

- 1 to cause to be set aside
- 2 to force out of use as inferior
- 3 to take the place or position of
- 4 to displace in favor of another

Source: Merriam-Webster 2014

Sovereignty

- 1 unlimited power over a country
- 2 a country's independent authority and the right to govern itself

Source: Merriam-Webster's Online Dictionary 2014

Sovereignty

- 1 Supreme power or authority
- 2 The authority of a state to govern itself or another state:
- 3 A self-governing state.

Source: Oxford English Dictionary 2014

Sovereignty

- 1 supreme and unrestricted power, as of a state
- 2 the position, dominion, or authority of a sovereign
- 3 an independent state

Source: Collins English Dictionary 2014

Conduct

- 1 The manner in which a person behaves, especially on a particular occasion or in a particular context:
- 2 The action or manner of managing an activity or organization

Source: Oxford English Dictionary 2014

Conduct

- 1 To direct the course of; manage or control: a police officer who conducts traffic; a scientist who conducts experiments.
- 2 To lead or guide: conducted the tourists through the museum.
- 3 To comport (oneself) in a specified way: The students conducted themselves with dignity throughout the ceremony.

Source: American Heritage Dictionary of the English Language 2014

Conduct

- 1 the way that a person behaves in a particular place or situation
- 2 the way that something is managed or directed

Source: Merriam-Webster's Online Dictionary 2014

Foreign Policy

- 1 A government's strategy in dealing with other nations:

Source: Oxford English Dictionary 2014

Foreign Policy

- 1 the policy of a sovereign state in its interaction with other sovereign states

Source: Merriam-Webster's Online Dictionary 2014

Foreign Policy

- 1 The diplomatic policy of a nation in its interactions with other nations.

Source: American Heritage Dictionary 2014

Affirmative Case #1—Kant

I affirm: “Resolved: When in conflict, human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy.” The thesis of my case is that U.S. foreign policy must be constrained my principled moral action based on prioritization of moral goods; human rights is an intrinsic good, or inherently valuable, whereas state sovereignty is merely an intrinsic good; a means to achieving other ends. Thus, in US foreign policy conduct, the protection of human rights ought to supersede state sovereignty.

I value morality. “Ought” in the resolution indicates the existence of an obligation, according to the American Heritage Dictionary 2014. In the context of LD Debate, we should look at “ought” as having a moral connotation. The moral connotation is rooted in the resolution’s use of the word “ought.” Immanuel Kant, a Enlightenment philosopher, explains: “All imperatives are expressed by an “ought” and thereby indicate this relation of an objective law of reason to a will which is not in its subjective constitution necessarily determined by this law. This relation is that of constraint. Imperatives say that it would be good to do or to refrain from doing something, but they say it to a will which does not always do something simply because it is presented a good thing to do.”¹

Furthermore, the U.S. government is subject to morality. The U.S. is a government of the people who act through elected officials in determining foreign policy conduct and thus the U.S. is constrained by moral imperatives in its foreign policy conduct. Kant(2): Since every practical law presents a possible action as good and thus as necessary for a subject practically determinable by reason, all imperative are formulas of the determination of action which is necessary by the principle of a will which is in any way good.² Thus, all human actions,

¹ Immanuel, Foundations of the Metaphysics of Morals, trans. Lewis White Black, Professor of Philosophy, University of Rochester, 1959 pg 30

² Kant, Immanuel, Foundations of the Metaphysics of Morals, trans. Lewis White Black, Professor of Philosophy, University of Rochester, 1959 pg 31

whether made individually or as part of a government, are constrained by moral imperatives. Thus, the resolution asks a question of morality, and thus morality must be the value.

My criterion is to accept U.S. foreign-policy conduct only if it is consistent with a categorical imperative. First, a categorical imperative is one that is a duty in all circumstances; there are no exceptions, and thus, the duty or “imperative” is “categorical” because it applies in every category, in every instance without exception. Kant(2): “There is, therefore, only one categorical imperative. It is: Act only according to that maxim by which you can at the same time will that it should become universal law.” Thus, a law is not universal and thus not a categorical imperative if there are exceptions.

Second, Kant distinguishes the categorical imperative from hypothetical imperatives. Kant(3): “If the action is good only as a means to something else, the imperative is hypothetical; but if it I thought of as good in itself, and hence as necessary in a will which of itself conforms to reason as the principle of this will, the imperative is categorical.”³ Therefore, only goods that are good in themselves give rise to the categorical imperative to achieve; goods that are only means to achieve another end give rise to hypothetical goods, which are not categorical. Kant(4) gives examples of instrumental goods giving rise to hypothetical imperatives: “Nothing in the world can possibly be conceived which could be called good without qualification except a good will. Intelligence, wit, judgment, and the other talents of the mind, however they may be named or courage resoluteness, and perseverance as qualities of temperament, are doubtless in many respects good and desirable. But they can become extremely bad and harmful if the will, which is to make use of these gifts of nature and which in its special

³ Kant, Immanuel, Foundations of the Metaphysics of Morals, trans. Lewis White Beck, Professor of Philosophy, University of Rochester, 1959 pg 39

constitution is called character, is not good.”⁴ Thus, the good will, which would will compliance with the categorical imperative, is the only inherent good; others are instrumental goods.

Third, human beings are ends in themselves and should never be treated as a means to an end; however, human being’s happiness is only an instrumental to treating each person with respect and thus promoting one’s happiness is **not** a categorical imperative. Kant(5): “There is one end, however, which we may presuppose as actual in all rational beings so far as imperatives apply to them, i.e., so far as they are dependent beings; there is one purpose not only which they can have but which we can presuppose that they all do

have by necessity of nature. This purpose is happiness. The hypothetical imperative which represents the practical necessity of action as means to the promotion of happiness is an assertorical imperative. We may not expound it as merely necessary to an

uncertain and a merely possible purpose, but as necessary to a purpose which we can a priori and with assurance assume for everyone because it belongs to his essence. Skill in the choice of means to one’s own highest welfare can be called prudence in the narrowest sense. Thus the imperative which refers to the choice of means to one’s own happiness, i.e., the precept of prudence, is still only hypothetical; the action is not absolutely commanded but commanded only as a means to another end.”⁵ This means that, in U.S. foreign policy conduct, the US must act in accordance with the categorical imperative of treating people as ends in themselves and never as a means to an end.

Contention I: Protection of Human Rights treats human beings as means in themselves and achieves the categorical imperative. Human rights are defined by the U.S. foreign policy of having adopted the UN’s Universal Declaration of Human Rights. Violating these human rights treats people as less than human beings and thus as means to an end. The University of Minnesota’s Human Rights Resource Center explains in ‘98: “To violate someone’s human rights is to treat that person as though she or he were not a human being. To advocate human rights is to demand that the human dignity of all people be respected. In claiming these human

⁴ 9

⁵ Rational beings are an end in themselves and should never be treated as a means to an end. Kant, Immanuel, Foundations of the Metaphysics of Morals, trans. Lewis White Beck, Professor of Philosophy, University of Rochester, 1959, pg 33

rights, everyone also accepts the responsibility not to infringe on the rights of others and to support those whose rights are abused or denied."⁶ This shows how protecting human rights achieves the categorical imperative as described by Kant; this is offense on my case showing how the resolution is true. My next contention will show why my offense outweighs any possible negative offense.

Contention II: State sovereignty is merely a means to an end and thus is only a hypothetical imperative.

A. Sovereignty is the idea that protects governments from outside intrusion; this protection is merely a means to self-governance, which might be good or it might be bad based on the circumstances. Because the benefits of sovereignty are always circumstantial, they are not categorical. Eric Brahm, Assistant Professor of Political Science at the University of Nevada at Las Vegas, writes in 2004: "At its core, sovereignty is typically taken to mean the possession of absolute authority within a bounded territorial space. There is essentially an internal and external dimension of sovereignty. Internally, a sovereign government is a fixed authority with a settled population that possesses a monopoly on the use of force. It is the supreme authority within its territory. Externally, sovereignty is the entry ticket into the society of states."⁷ Thus, sovereignty is merely a means to achieve self-governance and thus not intrinsically good. Therefore, it is not a categorical imperative.

B. The benefits of sovereignty can be achieved by other means, and thus are not unique to the negative side. Kant(6):

Kant(6): "Thus the moral worth of an action does not lie in the effect which is expected from it or in any principle of action which has to borrow its motive from this expected effect. For

⁶ <http://www1.umn.edu/humanrts/edumat/hreduseries/hereandnow/Part-1/whatare.htm>

⁷ Sovereignty, Beyond Intractability, www.beyondintractability.org/essay/sovereignty

all these effects could be brought about through other causes and would not require the will of a rational being, while the highest and unconditional good can be found only in such a will.”⁸

Therefore, any negative offense as to why sovereignty has good “policy impacts” are not unique to the negative side.

In conclusion, after detailing a sound moral theory needed in LD debate, my case shows how, in the conduct of US foreign policy, the protection of human rights ought to supersede state sovereignty. Therefore, you should vote to affirm the resolution.

⁸ Immanuel, Foundations of the Metaphysics of Morals, trans. Lewis White Black, Professor of Philosophy, University of Rochester, 1959, pg 17

Affirmative Case #2—International Law

I affirm. “Resolved: When in conflict, human rights protection ought to supersede state sovereignty in the conduct of United States foreign policy.” The thesis of my case is that in the conduct of U.S. foreign policy, international law requires human rights protection over state sovereignty.

I value justice. “Ought” in the resolution indicates the existence of an obligation, according to the American Heritage Dictionary 2014. Legal obligations are more valid than moral obligations on this topic: (1) the topic wording does not expressly use the word “moral obligation” or otherwise indicate morality; (2) definitions of the word “ought” are broad and do not specifically require a moral obligation; (3) the topic is about U.S. foreign policy, which is necessarily constrained by domestic law, the U.S. constitution and federal regulations, as well as international law; (4) legal education is better than moral education, as more debaters end up being lawyers than moral philosophers; and (5) legal approaches to this topic provide fair ground because there is enough debate over the meaning, value, and precedence of international law.

The criterion is consistency with international law. By the very words of our U.S. Constitution, treaties bind the United States to legal obligations to international law. Pittman, lawyer for the federal judiciary, 2012: “Some states and members of state legislatures have attempted to create legislation that would obviate or restrict the use of international law in their courts. Under the text and structure of the US Constitution and predominant trends in federal and state judicial decisions, this would not be constitutionally permissible. Under the Supremacy Clause of the constitution, it is unavoidably mandated that, along with the constitution: “[T]he Laws of the United States ... and all Treaties ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State

to the Contrary notwithstanding." The constitution expressly requires that "all" treaties shall have that effect, not merely some of them, the ones that a state might like or those that have already been executed by the president or the US Congress."⁹ This means that U.S. foreign policy conduct must be consistent with international law.

Contention I: The US has accepted the Universal Declaration of Human Rights as international law. Former President Jimmy Carter explained when this happened in 1992: "This Covenant, along with the ICCPR and the Universal Declaration of Human Rights, completes the International Bill of Rights. Those who oppose the ratification of the second Covenant believe governments have no obligation to safeguard the rights of their citizens to jobs, education, housing, and an adequate standard of living. Recent events illustrate the tragic flaws of such thinking. Also awaiting action by the Bush administration and the Senate are the American Convention on Human Rights, which I signed in May 1977, the Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination Against Women. Even the Convention on the Rights of the Child has not yet been signed by the US. By ratifying the International Covenant on Civil and Political Rights, the US has taken one step forward, albeit at too slow a pace. It now is incumbent upon future administrations to accelerate this progress and take action to end our country's inconsistency and double standards in dealing with human rights at home and abroad. We can hardly clamor for justice in other parts of the world if we will not pledge to provide justice for our own citizens."¹⁰ This means that the US must give precedence to protecting human rights.

Contention II: The concept of globalization is diminishing the legal importance of state sovereignty because what a state does in its own borders frequently has international effects giving rise to international legal interests. The Southern University of New York Levin

⁹ Caleb Pittman, States Are Unavoidably Bound by International Law, June 8, 2012, jurist.org/forum/2012/06/jordan-paust-states-bound.php, Pro Se Law Clerk at the US District Court for the Middle District of Penn

¹⁰ U.S. Finally Ratifies Human Rights Covenant By Jimmy Carter 29 Jun 1992 www.cartercenter.org/news/documents/doc1369.html

Institute's article from 2014 explains: "Under the concept of state sovereignty, no state has the authority to tell another state how to control its internal affairs. Sovereignty both grants and limits power: it gives states complete control over their own territory while restricting the influence that states have on one another. In this example, sovereignty gives the power to Brazil to ultimately decide what to do with its rainforest resources and limits the power of Canada to impact this decision. Globalization is changing this view of sovereignty, however. In the case of the Brazilian rainforest, Brazil may consider a rainforest located wholly within its property an issue solely of internal concern. Canada may claim that the world community has a valid claim on all limited rainforest resources, regardless of where the rainforest is located, especially in consideration of issues like endangered species and air pollution. Similarly, states no longer view the treatment of citizens of one state as only the exclusive concern of that state. International human rights law is based on the idea that the entire global community is responsible for the rights of every individual. International treaties, therefore, bind states to give their own citizens rights that are agreed on at a global level. In some cases, other countries can even monitor and enforce human rights treaties against a state for the treatment of the offending state's own citizens."

Contention III: States consent to having their sovereignty violated for human rights protection, therefore, any negative impacts won't happen. The Exeter 2014: "The development of international human right instruments over the last century has lead to an ongoing conflict between the general principles underpinning the international legal regime of consent and state sovereignty and the universal importance of upholding human rights and jus cogens norms. This conflict has extended into the realm of treaty law which governs binding international agreements and is generally regulated by state practice and the provisions of the

1969 Vienna Convention on the Law of Treaties ('VCLT'). This tension between the sovereignty of states and the importance of human rights-based treaty obligations has led to a radical and controversial restructuring of the law relating to reservations by states to human rights treaties by distinguishing them from 'normal' multilateral agreements. This essay seeks to assess the effect of the UN Human Rights Committee's General Comment No. 24 on state sovereignty and whether it has been successful in its objective of promoting the effectiveness of human rights obligations on states. A reservation is put forward as a condition of being bound and therefore is distinguished from an interpretive declaration which is an expression of the view of a party as to the meaning of a provision but not a condition of it being bound[1]. Reservations therefore reflect the consent-based nature of international law and also give states an incentive to ratify treaties if they can be excluded from obligations under certain provisions. Reservations also promote flexibility for states to protect their sovereignty from certain obligations whilst also being a party to a treaty whose general objective and purpose they support. An example of this advantage is illustrated by France's reservation and modification of Article 6 of the 1958 Continental Shelf Convention which ultimately led to them agreeing to ratify the treaty. The Pan-American Union (later Organisation of American States) adopted a flexible system of reservations whereby a reserving state was allowed to be party to the treaty[2]. This approach promoted universality in treaties however at the expense of consistency."¹¹

In conclusion, the US has a legal obligation to have human rights protection supersede state sovereignty. Thus, you should affirm.

¹¹ (U.N Human Rights and State Sovereignty, University of Exeter's Interdisciplinary Academic Journal, www.theundergraduateexeter.com/2014/03/u-n-human-rights-state-sovereignty/)

Negative Case #1—Consistency

I value consistency. Consistency is “conformity in the application of something, typically that which is necessary for the sake of logic, accuracy, or fairness,” according to the Oxford Dictionary 2014. Prefer the definition for common usage and accessibility. Consistency is a value in the context of foreign policy, which the resolution requires. “Ought,” as used in the resolution, is a normative word suggesting what should be done. Nothing in the resolution supports that the resolution is a question of morality or even legality; rather the only guide in the resolution to a framework for evaluating arguments is the context of foreign policy.

Consistency is a value for foreign policy, as per the definition of consistency, for three reasons: (1) it is necessarily more logical, which is preferable in the context of interscholastic debate; (2) it tends to be more accurate, which means you can prefer this value to less accurate descriptions of morality and justice; and (3) fairness, which access morality and justice values because you can have morality or justice without fairness. Logically, the criterion must be promoting consistency in U.S. foreign policy.

First, promoting human rights protections undermines consistency in U.S. foreign policy conduct. Mark P. Lagon, Adjunct Senior Fellow for Human Rights, Council on Foreign Relations, 2011: “Given differing U.S. human rights policies for Bahrain, Egypt, Libya, Saudi Arabia, Syria, and Yemen, was Ralph Waldo Emerson correct to say that “A foolish consistency is the hobgoblin of little minds”? A broad-minded view is that more consistency in promoting human rights would in fact better serve U.S. credibility and national interests. Presidencies past too often sacrificed human rights for other foreign policy objectives. From the Spanish-American War through the Vietnam War, U.S. policy was often a tale of assertive intervention in other

lands for strategic interests in the name of “saving” or “civilizing” them.”¹² Thus, historically the U.S.’s attempt to have human rights supersede sovereignty have led to inconsistencies, so you can negate here.

Second, the U.S. lacks the resources to consistency enforce all human rights everywhere in its conduct. An Article Entitled “the Human Rights Problem” from Princeton University Press 2014 states: “My first contention is that the tendency to swell the list of countries that are members of international human rights agreements along with the list of rights themselves makes the bureaucratic challenge of promoting rights harder to solve. That is because it is difficult to enforce the law by threatening punishments alone—there isn’t enough coercive capacity to deter every act of defiance. Authorities also need a lot of willing compliance—because laws coincide with what countries will do anyway or because societies have been persuaded that laws are legitimate. More laws and members erode legitimacy if they lead to lower levels of compliance. Lower compliance makes it hard for abusing countries as well as the many different actors in the international human rights system to know which laws they should take seriously.”¹³ Thus, it is practically impossible to consistently prioritize human rights over sovereignty consistent, and you can negate here.

Now on to the affirmative’s case.

¹²:Promoting Human Rights: Is U.S. Consistency Desirable or Possible?, October www.cfr.org/human-rights/promoting-human-rights-us-consistency-desirable-possible/p26228

¹³ The Problem of Human Rights, press.princeton.edu/chapters/s10036.pdf pg. 6

Negative Case #2—Sustainability

I value sustainable foreign policy. Sustainable means is “to be used without being completely used up or destroyed,” according to the Merriam-Webster’s Dictionary 2014. Prefer the definition for common usage and accessibility. Sustainability is a value in the context of foreign policy, which the resolution requires. “Ought,” as used in the resolution, is a normative word suggesting what should be done. Nothing in the resolution supports that the resolution is a question of morality or even legality; rather the only guide in the resolution to a framework for evaluating arguments is the context of foreign policy.

Sustainability is a value for foreign policy, as per the definition, for three reasons: (1) it is necessarily more logical because foreign policy that cannot sustain itself is self-defeating logical; prefer logic in the context of interscholastic debate; (2) the US government owes it to the people to be sustainable, otherwise cannot protect human rights or our own sovereignty at home; and (3) sustainable foreign policy is necessary to morality or justice because if we are not sustainable, then by definition, we will be destroyed; if we are destroyed we cannot act to achieve morality or justice. Logically, the criterion must be promoting sustainability in U.S. foreign policy.

One, the U.S. is moving away from international intervention because it is unsustainable. The New York Times 2012: “For the last 20 years we have lived amid the furious clangor of war — and debates over how to wage it. The intense and urgent clashes in the 1990s over “humanitarian intervention” gave way to pitched battles over “regime change” and “democracy promotion” after 9/11, and then to arguments over “counterinsurgency strategy,” a new battle for hearts and minds, as Barack Obama ramped up the war in Afghanistan. The foreign policy debate has often felt like an ideological cockfight. And now, although we have not yet realized it,

that era has come to an end.”¹⁴ Thus, the US is moving towards sustainable foreign policy, which does not include intervention to protect human rights, so you can negate here.

Two, the US does not need to police the world to protect human rights; it’s unsustainable. The New York Times 2012: “Whatever policy the Obama administration or its successor adopts toward China, the broader East Asian region, unlike the Middle East, is filled with stable, and largely democratic, states. The United States does not have to defend liberty and justice there. Regime change, democracy promotion and nation-building will be off the table. So, for that matter, will war. America is not about to go to war with China, or with anyone else in Asia. The struggle to balance Chinese ambition will be left mostly to the Navy and Air Force, and our allies in the region. And it will not be a metaphysical one: the very complicated relationship with China is much less a clash of worldviews than of interests.” Thus, you can negate here because the US lacks the resources to police the world.

Now onto the affirmative case.

¹⁴ The End of American Intervention, www.nytimes.com/2012/02/19/opinion/sunday/the-end-of-american-intervention.html?pagewanted=all&_r=0

Affirmative Extensions

Respecting borders hinders efforts at peace.

Gearoid O Tuathail, Professor of Geography, Virginia Tech, writes in the JOURNAL OF STRATEGIC STUDIES, 2011, <http://frenndw.files.wordpress.com/2011/03/geopol-the-geopolitics-reader.pdf>

None of this is to suggest that so-called 'rogue states' are not threats that sometimes require resolute international response. Rather, it is to challenge the ways in which the threat is represented as a territorial threat 'out there' from 'non-Western others' rather than as a pervasive threat from our very own techno-scientific modernity. Behind the territorializing of global risks in 'rogue states' is a broader geopolitical question that is central to geopolitics today and likely to remain so into the twenty-first century: how does the West respond to the inevitable diffusion of weapons of mass destruction and ballistic missiles, techno-scientific capabilities pioneered by superpower military-industrial complexes, to developing states, to rogue states and even to failing states? Put differently, how is the Enlightenment West going to deal with the diffusion of its most deadly weapons, substances and delivery vehicles to the non-West? Whether the West responds by acknowledging that the problem is techno-scientific modernity as a whole -- acknowledging that 'we (too) are the enemy', that 'our' laboratories, 'our' corporations and 'our' scientists first developed most of the weapons that now threaten us -- or whether it responds by territorializing logics that view the problem as 'out there' with 'them' is a crucial question." This shows how borders blind us to the flaws that create threats within our own borders because it forces us to view the threat from others and not ourselves. This means the threats are not addressed and peace is not achieved.

Wars between nations most often start over the concept of state sovereignty.

Ewan Anderson, Professor of Geopolitics, University of Durham explains in JOURNAL OF STRATEGIC STUDIES 1999

<http://www.tandfonline.com/doi/abs/10.1080/01402399908437757>

In considering warfare, it appears to be a truism that wars must almost always begin at borders. Claims over territory and the locational status of boundaries may not be solved peacefully and may involve the use of force. Some of these instances concern claims based on the factors identified, but many are the product of historical, cultural and economic factors. Even more are a mixture of several factors. For example, there are many incidents when conflict has occurred between Israel and its neighbours, affecting cultural, economic and ideological issues. Kocs focused on the initial causes of military conflict in mapping interstate war between 1945 and 1987. He split state dyads into noncontiguous dyads, contiguous dyads where a never-resolved dispute existed over a contiguous boundary existed and contiguous dyads where no such dispute existed. As would be expected, he found that the probability of war is 40 times more likely between contiguous states if they are involved in an unresolved boundary dispute. The figure is reduced to 19 times higher if Israel were removed from the matrix.

We must transcend ancient concepts of state sovereignty and borders to solve global problems.

Gearoid O Tuathail, Professor of Geography, Virginia Tech, writes in the JOURNAL OF STRATEGIC STUDIES, 2011, <http://frenndw.files.wordpress.com/2011/03/geopol-the-geopolitics-reader.pdf>

“Beck suggests it is virtually impossible for modern institutions to conceptualise the problems of risk society using only the conceptual imagination provided by industrial society. By this logic, the reflexive modernisation of geopolitics by industrial age geopolitical institutions will inevitably be superficial and partial. It will attempt to reduce the irredeemably global problems of risk society to an 'either/or' logic of representing risks as enemies, drawing boundaries against this enemy, and then applying instrumental rationality to 'solve' the threat. Consequently, 'global dangers' are configured in practice as a parade of enemies like 'terrorists,' 'rogue states' and 'nuclear outlaws' that need to be isolated, contained and defeated.

Sovereignty is a barrier to solving global conflicts.

Errol Harris, Professor of Philosophy, “ONE WORLD OR NONE,” 1991

“After the Second World War, a fresh determination to outlaw aggression and the resort to force in international disputes issued in the repetition of the same sort of undertaking, with strong American backing and all international military force provided by the members to give the organization "teeth" with which to enforce observance of its decisions. But these "teeth" never materialized for predictable reasons, and the veto provisions in the Security Council negated the influence of the superpowers. In truth, the states by whose agreement the charter was endorsed never intended to abjure their sovereign rights, and so could be persuaded to join nothing better than a treaty organization such as the United Nations has proved to be.

Common morality requires that we do not allow others' human rights to be harmed by violence if we can reasonably prevent it.

Terry Nardin, “The Moral Basis of Humanitarian Intervention,” Ethics & International Affairs, Vol 16, 2002, Questa

“Given the principle of beneficence, common morality may require us to act when others are in danger of serious injury, whether by accident or as victims of wrong-doing. This requirement is expressed in the parable of the Good Samaritan (Luke 10:29-37) and, more pointedly, in the divine command that you must not stand idly by the blood of your neighbor (Leviticus 19:16). The principle of beneficence, which this command invokes, leaves us free to decide how to promote the well-being of others. Nevertheless, if we are able to provide immediate assistance to someone who needs it, we should provide that assistance. And this implies that we must not allow anyone to be harmed by violence if we can reasonably prevent it. In short, assuming that the costs are not too high, it is "not merely permissible but a duty to employ force against the violent if their victims cannot otherwise be protected." (28) This is the fundamental principle underlying humanitarian intervention.” This means the only way to meet the criterion of common morality is to intervene to protect human rights if it is reasonable for us to do so.

Common morality requires that we prioritize the human rights of our neighbors.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," *Ethics & International Affairs*, Vol 16, 2002, *Questa*

Christian tradition holds explicitly that all human beings are "neighbors." Vitoria, for example, writes that "the barbarians are all our neighbors, and therefore anyone, and especially princes, may defend them from ... tyranny and oppression." (30) Common morality, also, holds that every human being is in principle my neighbor and therefore entitled to assistance, though practically speaking I may be limited to helping those with whom I am connected in some way. It follows that humanitarian intervention is governed by the same principles of nondiscrimination that govern all conduct. It would, for example, be discriminatory in a way that deserves moral condemnation if Western governments acted to redress gross violations of human rights in Europe, but remained indifferent to equivalent or graver harms suffered by Africans. To be sure, Europeans today do not necessarily have the same duty to intervene in Africa as in Europe, for there may be special obligations or practical constraints that distinguish the situations. But the case must be made carefully. No people can be arbitrarily excluded from humanitarian concern in ways that amount to prejudicial discrimination."

Sovereign states that are members of the UN consent to other countries enforcing human rights protections across borders.

Joshua M. Kagan, "The Obligation to Use Force to Stop Acts of Genocide: An Overview of Legal Precedents, Customary Norms, and State Responsibility," *San Diego International Law Journal*, Spring, 2006, *Lexis*

First and foremost among the purposes underlying the creation of the United Nations was the maintenance of international peace and security. n57 Not only is this emphasis evident from the language of the Charter itself, but it also is reinforced when one looks at the circumstances that surrounded the creation of the United Nations. The U.N. Charter was signed in San Francisco on June 26, 1945. n58 Written soon after World War II, its drafters sought to create an international body that was strong enough to adequately address the acts of aggression and threats to world peace that had been wrought during the war. n59 It is not an overstatement, then, to say that the United Nations, a body dedicated to maintaining international peace and security, whose creation came at the culmination of World War II, was created in large part to address the acts of genocide and other widespread war crimes perpetrated in that war.

UN member states submit some of their authority to the violation of sovereignty to external protections of human rights.

Joshua M. Kagan, "The Obligation to Use Force to Stop Acts of Genocide: An Overview of Legal Precedents, Customary Norms, and State Responsibility," San Diego International Law Journal, Spring, 2006, Lexis

Within the structure of the United Nations, the Security Council is given primary responsibility for the maintenance of peace and security on a global level. n60 Member-states of the United Nations (of which there were 191 at the time this comment was written) n61 grant the Security Council the right to act on their behalf in carrying out its duties associated with such responsibility. n62 Member-states also agree to accept and carry out the decisions of the Security Council. n63 Thus, the Security Council is the most powerful arm of the United Nations and the one which is best able to address issues that threaten the global geopolitical equilibrium.

The US has legal moral obligations to prioritize the protection of human rights in our foreign policy to stop genocide.

Joshua M. Kagan, "The Obligation to Use Force to Stop Acts of Genocide: An Overview of Legal Precedents, Customary Norms, and State Responsibility," San Diego International Law Journal, Spring, 2006, Lexis

Precisely what obligations does the use of the term "genocide" create? International Court of Justice Judge Bruno Simma has contended that the commission of acts of genocide may create an obligation for member-states to the Convention to stop such actions. n175 However, [*483] former U.S. Secretary of State Colin Powell has asserted that the United States satisfies its obligations under the Convention by providing money for humanitarian assistance, engaging diplomatically, and working through the U.N. Security Council towards a resolution. n176 The U.S. Senate Foreign Relations Committee released a 1989 report on the Genocide Convention in which it found the only obligation created by the Convention to be the enactment of domestic legislation to make genocide a municipal crime. n177 Leading international scholar Professor Winston Nagan, n178 on the other hand, has identified the obligation to both prevent and punish acts of genocide as an obligation erga omnes, n179 that is, one that is owed to the international community as a whole. n180 Finally, Professor Joseph Betz n181 seems to go even further by implying that state-parties to the Genocide Convention had an obligation, which they failed to meet, to stop the atrocities in Kosovo and Rwanda. n182 While the precise obligation imposed by the Genocide Convention remains unclear, it seems evident from these statements that declaring an incident to be "genocide" does trigger some sort of duty, and that there is some support for including the suppression of genocide as such a duty.

Concepts of sovereignty are actually changing and thus should fall second to human rights protections which are consistent.

Kenneth R. Himes, "The Morality of Humanitarian Intervention," Theological Studies, Vol 55, 1994, Questia

There is a changing understanding of political authority in the modern world. Ever since the Treaty of Westphalia only states were seen as possessing sovereignty. Realpolitik overemphasized the legitimacy of states and undervalued the place of both supra- and sub-national actors. But, due to patterns of democratic participation and the popular ideology of human rights, the restriction of sovereignty to a characteristic solely of states is undergoing some erosion. Increasingly, individuals and nongovernmental institutions have standing in international law.

The claim of sovereignty is insufficient in the face of increasing international connectedness.

Kenneth R. Himes, "The Morality of Humanitarian Intervention," Theological Studies, Vol 55, 1994, Questia

The revolutions in information, communication, travel, business, environmental awareness and other areas have led to a new understanding of what is frequently called interdependence. It simply is not possible to maintain the same old claims to absolute sovereignty over one's population when so much of what used to fall under the domestic jurisdiction of a state is now subject to international forces. Our understanding of sovereignty must evolve to fit the times. The meaning of "domestic affairs" is historically conditioned (Chopra and Weiss, Pease and Forsythe, Scheffer, and Weigel).

Certain crimes that occur within states are crimes against humanity, and justify the violation of sovereignty to protect human rights.

Kenneth R. Himes, "The Morality of Humanitarian Intervention," Theological Studies, Vol 55, 1994, Questia

Among the important developments in political life is the way in which rights-claims have been "internationalized." Whereas individual states may still be seen as the ordinary mechanism for protecting rights, there is growing appreciation of appeals to a broader audience in the face of extraordinary human rights abuses and/or failures within a state. There are crimes against humanity (Chopra and Weiss, Kegley, Pease and Forsythe, Roberts, Scheffer, and Weigel).

Human rights violations are threats to international order, and thereby justify violating sovereignty.

Kenneth R. Himes, "The Morality of Humanitarian Intervention," Theological Studies, Vol 55, 1994, Questia

Extensive and persistent violations of human rights are themselves threats to international order and peace. New waves of refugees, disturbances in economic life such as limitations of trade or access to resources, cross-border loyalties of race, religion or ethnicity which will arouse concern in other states--these are some of the likely results of widespread repression within a nation. Other states, especially neighboring ones, can not afford to be indifferent to a government's grossly abusive activity (Kegley, Roberts, and Scheffer).

Common morality demands respect for all persons and thus demands human rights protection

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questia

Though banished from the realm of positive law, natural law did not simply disappear. It continued to march under the banner of morality. To distinguish this latter-day natural law, stripped of its religious and legal connotations, from the mores of particular communities, we may speak of a "common morality" binding on all human beings. Common morality assumes that human beings are thinking, choosing agents, and that everyone has an equal right to think and choose. It therefore requires us to recognize the inherent capacity of each person to make choices of his or her own. The foundation of common morality, then, is the principle that each person must respect the agency of every other. This is Kant's "principle of respect." (23) The more specific precepts of common morality are interpretations of this basic principle.

The principle of human rights transcends boundaries.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questia

We must distinguish common morality from the mores of particular communities. Its principles constitute a common moral world in which human beings have rights not as members of this or that community but as members of the human community. Common morality rests neither on positive law nor on custom. It is, rather, the product of critical reflection on laws and customs, and in this sense may be said to be known by "reason." Its principles provide a standard "by which everybody ought to live, no matter what the mores of his neighbors might be."

Rights do not depend upon official state recognition for their validity. International human rights supersedes domestic law.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questa

The principles of common morality--like those that prohibit murder and deliberate harm to innocents and teach friendship, cooperation, and fairness--are basic to civilized life and are in fact recognized in most communities and traditions. This broad recognition is of immense practical importance, for it means that in appealing to common morality the moralist is appealing to principles whose authority has already been granted, implicitly if not explicitly, by a great many people. There are certainly people who do not belong to the common moral world, but one should not underestimate the degree to which its principles are generally acknowledged. (25) It is important to emphasize, however, that although the principles of common morality may be "common" in the sense that they are recognized in different communities, their validity does not depend on such recognition. They are required by a conception of the person and of what is owed to persons, not by convention. Common morality is a critical morality possessing wider authority than the moral practices of particular communities, and for this reason it provides a standard by which to criticize these practices. Like the idea of human rights, the idea of common morality is opposed to communitarian ethical theories that ground moral duties on custom and consent.

Intervention to protect human rights is grounded in common morality.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questa

The relevance of common morality to humanitarian intervention should by now be apparent. Humanitarian intervention is a response to grave human rights violations, and the most basic human rights are universal moral rights--rights, in other words, that rest on the principles of common morality. There are, then, good reasons for grounding the ethics of humanitarian intervention in common morality and not in particular religious or national moralities, or even in international law, which rests on custom and agreement, not moral reasoning.

Common morality permits us to defend the rights of others.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questa

Common morality forbids us to use other human beings coercively to achieve our ends. Using force, without good reason, violates the principle of respect. This explains not only why murder and slavery are wrong but also why self-defense is morally justifiable. But common morality does not limit the use of force to self-defense. It also permits us to defend the rights of others when those rights are threatened. We are therefore justified in using force to thwart violence against other persons, provided those persons are morally "innocent"--that is, not themselves engaged in unjust violence. Using force to resist those who attack the innocent does not violate the attackers' rights as free persons because they have, by their own actions, lost the moral right to act as they choose. It is even permitted to kill attackers, if necessary, to protect their victims. We are justified in using as much force as is needed to thwart the attack, but not more--bearing in mind that precise calculations about such matters are impossible.

Common morality demands we assist the well-being of others.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," Ethics & International Affairs, Vol 16, 2002, Questa

Though derived ultimately from the principle of respect, the right to use force to defend the innocent from violence rests more immediately on the idea of beneficence, which is the idea that human beings should support one another in appropriate ways. To respect other human beings as rational agents means not only that we must not interfere with their freedom but also that we should assist them in achieving their ends. Common morality is at its core a morality of constraint, but its precepts are not limited to those that constrain us. It also asks us to advance the well-being of others--by being cooperative, helpful, charitable, and the like--in ways that are morally permissible and not disproportionately costly. In other words, in helping others we are forbidden to do wrong for their sake and we are not required to do more than we can reasonably afford.

The principle of sovereignty is not a shield states may hide behind.

Terry Nardin, "The Moral Basis of Humanitarian Intervention," *Ethics & International Affairs*, Vol 16, 2002, *Questia*

It is consistent with common morality to argue that humanitarian intervention is justified, in principle, in a wide range of situations, but that practical considerations usually override this justification. (29) But one can also justify limiting intervention to the gravest abuses by invoking considerations that arise from the aims of civil association. The state as a coercive institution is morally justifiable because, in principle, it enables human beings to fulfill their potentialities by living together according to common rules. But once a state has been established, its citizens must obey the laws it adopts for this purpose, assuming these laws are not substantially unjust. And a substantially just state is entitled to respect by other states, which are morally barred from interfering with its government. The nonintervention principle is therefore basic to relations between states. It is not a mere custom of the international system. There are moral reasons why a state must be recognized as having rights, in particular the right that outsiders respect its independence and boundaries. But the same principles that justify the nonintervention principle justify exceptions to that principle. If a government seriously violates the moral rights of those it governs, others may defend those rights, using force if necessary. The nonintervention principle is not a shield behind which an unjust state can hide while it violates the moral rights of its subjects. Such violations, if serious enough, permit forcible humanitarian intervention and may even demand it. But respect for the rights of a political community requires that those violations be truly grave.

A state that does not protect human rights cannot claim absolute sovereignty.

Vesselin Popovski, "Sovereignty as Duty to Protect Human Rights," *UN Chronicle*, Vol. 41, December 2004, *Questia*

This accumulation of precedents led to a re-conceptualization of sovereignty, which no longer antagonizes but rather incorporates the concept of human rights. A State cannot pretend absolute sovereignty without demonstrating a duty to protect people's rights. As Stanley Hoffmann wrote: "The State that claims sovereignty deserves respect only as long as it protects the basic rights of its subjects. It is from their rights that it derives its own. When it violates them, what Walzer called 'the presumption of fit' between the Government and the governed vanishes, and the State's claim to full sovereignty falls with it." (5) When Governments fail to protect human rights, moreover in cases when they deliberately engage in policies leading to crimes against humanity or mass violations of human rights, the international community can intervene and exercise an extraterritorial duty to protect people at risk. The principle of sovereignty is not denied by such intervention; it refocuses from being an absolute control over certain territory to being a responsibility to govern in a certain manner. The sovereignty of States is no longer based on the right of Governments, kings, sheikhs or presidents to govern; it depends on their duty when governing to respect human beings. The sovereignty of States means the sovereignty of people, not of leaders.

States that do not respect the rights of their citizens will not respect the sovereignty of other states.

Vesselin Popovski, "Sovereignty as Duty to Protect Human Rights," UN Chronicle, Vol. 41, December 2004, Questia

The realization that human rights are equally important along with territorial integrity presents States with a dual responsibility: external respect for the sovereignty of other States; and internal respect for the dignity and well-being of its people. These two attitudes become integral; the recognition and respect of other States depends on whether they respect their own people. The 1933 Montevideo Convention on the Rights and Duties of States defined the State as a person of international law with the following qualifications: (a) a permanent population; (b) a defined territory; (c) Government; and (d) capacity to enter into relations with the other States. Today, one can complement this definition with a further qualification: the State is internationally recognized upon satisfactory protection of the rights of the people living on its territory.

The concept of borders and sovereignty is a relic best disregarded.

Mathias Albert, Professor of International Relations, Johann Wolfgang Goethe University, GEOPOLITICS, Summer 1998, p.56.

It seems quite clear the traditional state-centric view becomes less and less tenable in an era of transnational migration and the formation of stable transnational communities, the intangibility of international financial markets and the globalisation of consumption, labour and production, and the emergence of new political forms of organisation such as the European Union. Given the changing meaning of territorial boundaries, reference is frequently made to a 'new medievalism', an overlapping of various authorities on the same territory, in turn giving rise to the idea that empire-like structures are reappearing in the most 'advanced' parts of the world (such as Western Europe). In addition, various conceptualisations of 'international society' and 'world society' receive renewed attention as it becomes increasingly clear that the traditional sociological notion of 'society' itself carries the image of a society bounded by the boundaries of the territorial state, an image which becomes untenable in an era of globalisation.

The territorial state is no longer capable of effective governance.

Richard Falk, Professor of International Law and Practice, Princeton University, PREDATORY GLOBALISM, 1999, p.35

I believe that the states system as the self-sufficient organizing framework for political life on a global level is essentially over: "it is history." Let me explain. The state remains the preeminent political actor on the global stage; but the aggregation of states -- what has been called "a states system" -- is no longer consistently in control of the global policy process. Territorial sovereignty is being diminished on a spectrum of issues in such a serious manner as to subvert the capacity of states to govern the internal life of society, and non-state actors hold an increasing proportion of power and influence in the shaping of world order.

The idea of borders and sovereignty blind us to our own flaws.

Gearoid O Tuathail, Professor of Geography, Virginia Tech, JOURNAL OF STRATEGIC STUDIES, June/September 1999, p.121-2.

One can find evidence of this countermodern tendency in certain contemporary geopolitical crises where global threats are territorialized as threats from 'rogue states'." The problem of weapons of mass destruction, for example, becomes the problem of Saddam Hussein and what to do about Iraq. The problem of ballistic missiles becomes the problem of Iran, Iraq, North Korea and China. Terrorism becomes the problem of 'rogue states' like Sudan and Afghanistan. Indeed, the Clinton administration's August 1998 cruise missile attacks against Sudan and Afghanistan illustrate the impulse to discipline 'and' by 'either-or' thinking. A formless transnational terrorist attack on US embassies in Africa demanded a resolute response. A weakened President and his inner circle decide, with debatable intelligence information, that a series of sites, former CIA bases in Afghanistan, a pharmaceutical plant outside Khartoum, are terrorist bases and facilities that present 'an immanent threat to the national security of the United States'." Eighty cruise missiles are then sent to demonstrate 'a resolute response to international terrorism'. The world of 'and' is resimplified by the 'either-or' of state violence. The December 1998 bombing of Iraq is another example. The absurdity of bombing to stop certain states developing weapons of mass destruction illustrates the contemporary geopolitical condition, a world where either/or institutions are desperately trying to grapple with the risks and dangers of 'and'.

Sovereignty remains a major cause of war.

Michael Mandelbaum, Professor of American Foreign Policy, Johns Hopkins University, SURVIVAL, Winter 1998-9, p.29-30.

There is, however, one issue that has the potential to embroil Russia, China and others in a major war. That issue is the mismatch between the location of borders and the location of peoples. The misalignment between state and nation, the desire of a group of people to change the jurisdiction in which it lives, can be, and often has been, a cause of war. It takes two forms, each of which affects both Russia and China and one of which is more dangerous than the other.

Negative Extensions

The US doesn't need to act; the UN has the authority to use force to impose peace.

Joshua M. Kagan, "The Obligation to Use Force to Stop Acts of Genocide: An Overview of Legal Precedents, Customary Norms, and State Responsibility," San Diego International Law Journal, Spring, 2006, Lexis

While the U.N. Charter grants the Security Council broad discretion in acting on behalf of member-states to maintain peace and security on an international level, the exact actions available to the Security Council in acting on such authority are not necessarily clear. The Security Council has the authority to determine whether a threat to the peace, n64 breach of the peace, n65 or act of aggression exists, n66 as well as the authority to determine what the United Nations' response should be to such a situation. n67 A U.N. response can take several forms, some that do not involve the use of armed force, n68 and others that implement force to maintain or restore international peace and security.

The international community does not broadly accept the concept of intervention.

Bartram S. Brown, "Humanitarian intervention at a crossroads," William and Mary Law Review, Vol. 41, 2000, Questia

The legal case against recognition of even a conditional legal right of humanitarian intervention is easily made. It begins with the principle of nonintervention,(49) which generally bars forcible intervention by one state upon the territory of another.(50) The right of self-defense and, occasionally, the right of reprisal have been recognized as exceptions to this prohibition, but claims to a right of humanitarian intervention have never achieved the same degree of acceptance by the international community.

The right to intervene is deliberately limited by the UN.

Bartram S. Brown, "Humanitarian intervention at a crossroads," William and Mary Law Review, Vol. 41, 2000, Questia

The U.N. Charter codifies a new and stricter regime limiting the use of force. It prohibits the threat or use of force against the territorial integrity or political independence of states(51) and recognizes only the two exceptions discussed above.(52) The Charter does not recognize any right to use force to protect human rights,(53) except insofar as this may be decided upon and authorized by the Security Council. Regional action is no exception to this rule. Article 53(1) of the Charter specifically provides that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council."(54) Even the right of reprisal, which had achieved general acceptance prior to the creation of the United Nations,(55) has only a doubtful status under the Charter regime.

Dominant countries use weak justification to use force in supposed humanitarian intervention. Bartram S. Brown, "Humanitarian intervention at a crossroads," William and Mary Law Review, Vol. 41, 2000, Questia

When the United States, United Kingdom, and France established "no-fly" zones in northern and southern Iraq, they claimed that the action was for the humanitarian purpose of protecting the Kurdish and the Shiite minorities from repression; the doctrine of humanitarian intervention, however, was never invoked as a legal justification. Instead, these three permanent members of the Security Council argued that the action was legally justified because it was taken pursuant to Security Council Resolution 688.(72) This resolution condemns Iraqi repression as a threat to international peace and security,(73) but no Security Council resolution ever mentions the "no-fly" zones, and none authorizes the use of force that those zones entail. Resolution 688 merely appeals to all member states and humanitarian organizations to contribute to humanitarian relief efforts.(74) It certainly does not amount to a Security Council authorization of forcible humanitarian intervention. Nonetheless, some find an authorization of the use of force in even this weak language,(75) and key members of the Security Council have treated it as such.(76) Nine years later, allied patrols are still destroying Iraqi fixed-wing planes flying in these zones, as well as Iraqi radar installations that threaten allied planes within the zones.(77) It strains credibility to argue that this continuing use of force is justified by Resolution 688. Instead, the United States, British, and French governments might have been better served by invoking the concept of humanitarian intervention.

No formal right to intervene exists.

Bartram S. Brown, "Humanitarian intervention at a crossroads," William and Mary Law Review, Vol. 41, 2000, Questia

What does this confusing body of state practice tell us about the law of humanitarian intervention? Cross-cutting conclusions can be drawn. This practice strongly suggests that no formal right of humanitarian intervention has been recognized in the Charter era. If states believed that international law recognized such a right, surely they would have invoked it in at least one of the cases referred to above. Conversely, the frequent practice of what might be classified as humanitarian intervention, even in the absence of a recognized right to do so, suggests the need for a single legal doctrine that could distinguish between the best, and the worst, cases of forcible humanitarian intervention.

Protecting human rights universally and consistently is impractical as a policy matter.

David Wippman, "Defending Democracy Through Foreign Intervention," Houston Journal of International Law, Vol 19, 1997, Questia

Even when the conceptual and legal obstacles to intervention can be surmounted, cases of coercive intervention to promote democracy are still likely to be few and far between. First, formal institutional structures for the promotion of democracy are weak, and are likely to remain so for the foreseeable future.(101) Second, only extraordinary cases are likely to generate the international political will required to challenge a determined indigenous elite unwilling to relinquish political power.(102) Third, it is extremely difficult to calibrate existing tools for coercing state behavior to produce the desired ends without imposing unacceptable costs on the very people intervention is designed to help.(103) And fourth, prospects for success in such cases are uncertain at best. For all these reasons, drastic measures such as economic embargoes and military intervention are likely to be rare. Instead, efforts to promote democracy in other states are likely to take other forms, including, most notably, continued efforts by international organizations and individual states to condition access to various benefits on good governance, broadly defined.

Other countries do not support US intervention for human rights.

David Wippman, "Defending Democracy Through Foreign Intervention," Houston Journal of International Law, Vol 19, 1997, Questia

The biggest potential obstacle to successful intervention to promote democracy is the difficulty of generating the necessary political will. A coup in a politically marginal state may have little direct impact on states outside the immediate vicinity.(118) But a decision to intervene implicates the interests of virtually all states -- most of which wish to limit carefully the situations under which coercive measures can be employed in international relations and view coercive efforts to promote democracy with skepticism or hostility.(119) In many cases, states whose cooperation is essential to successful employment of coercive measures may find that their own economic or security interests militate against cooperation. In the case of Haiti, for example, many European states continued to trade with Haiti even after the OAS called for a trade embargo, arguing that they were obligated to do so because of prior trade commitments.(120) Military intervention poses even greater obstacles. To obtain Security Council authorization for such intervention in Haiti, the United States and its allies on that issue had to engage in a delicate mix of political pressure and political deal making.(121) The United States had the incentive to push through an authorizing resolution because it wanted to stem refugee flows and repair the political damage to the Clinton administration caused by domestic critics of its Haiti policy.(122) Even so, obtaining the necessary authorization was not easy, and it is not something likely to happen with any frequency.

Affirming drains US resources because protecting human rights is too expensive.

David Wippman, "Defending Democracy Through Foreign Intervention," Houston Journal of International Law, Vol 19, 1997, Questia

In addition to the political barriers, military intervention is expensive in money, in political capital, and often in human lives.(123) Most states do not desire to incur a significant share of the costs and the uncertainties of a coercive intervention without substantial security or economic interests at stake.(124) As a result, military intervention usually requires the lead of a committed and powerful state, one that is willing to invest the necessary resources and to stay long enough to accomplish the goals of intervention.(125) However, because promotion of democracy through force may prove to be a time-consuming and painful venture, few such states will be willing to risk it with any frequency.

Intervening to protect rights has and can make things worse.

David Wippman, "Defending Democracy Through Foreign Intervention," Houston Journal of International Law, Vol 19, 1997, Questia

In Panama, Grenada, and Haiti, for example, intervention did result in the substitution of electoral politics for dictatorial rule, and although the democratic transformation is not complete in any of these countries, each seems generally to have benefited from intervention.(136) In other countries, such as Liberia and the Central African Republic, intervention may end up making matters worse. In Liberia, a group of West African states intervened in an attempt to end a destructive civil war and permit formation of a democratically elected national government.(137) Seven years later, however, war continues to ravage that country(138) and, although it is too soon to be certain, it may be that intervention simply prolonged the conflict to no good end. In the Central African Republic, France recently intervened to help suppress an army mutiny against a democratically elected government which was corrupt and authoritarian once in office.(139) In that case, French intervention seems to have preserved a government that is democratic in name only, against the will of a substantial majority of the state's population.

No consistent rule to determine when to prioritize human rights over sovereignty is really possible.

David Wippman, "Defending Democracy Through Foreign Intervention," Houston Journal of International Law, Vol 19, 1997, Questia

Ultimately, the success of intervention depends on the strength, commitment, and resources of the intervenors and, more importantly, on the extent to which the leaders and the population of the affected state view the intervention (and democracy as in their interest. Factors of this sort are too subjective to incorporate into a legal rule governing intervention, and must necessarily be left to the political judgment of the actors who engage in or authorize intervention. As a result, there is ample room for states skeptical of the wisdom of pro-democratic intervention to oppose such intervention on utilitarian grounds in the large majority of cases where intervention might be suggested.

Prioritizing human rights protections actually fosters rebellion and humanitarian crisis.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

Analogously, the emerging norm of humanitarian intervention is intended to protect vulnerable groups against state-perpetrated genocide or ethnic cleansing (both of which I refer to as “genocidal violence”).⁵ Unlike the famous case of the Holocaust, however, most such violence occurs only when members of a vulnerable group acquire arms and challenge a state’s authority, prompting the state to retaliate disproportionately (Fein 1990; Harff and Gurr 1988; Kuperman 2005; Valentino, Huth, and Balch-Lindsay 2004).⁶ Not surprisingly, the vast majority of groups, even those suffering discrimination, do not launch rebellions (Fearon and Laitin 1996, 2003; Gurr 2000).⁷ But the emerging norm, by raising expectations of diplomatic and military intervention to protect groups targeted by such retaliation, creates moral hazard that unintentionally fosters rebellion by lowering its expected cost and increasing its likelihood of success.⁸ In some cases, moral hazard promotes irresponsibility: for example, a group’s leaders will acquire arms and secede from the state even though they know this may trigger state retaliation that they cannot defend against, because they expect the international community either to deter such retaliation or intervene on their behalf in the event of violence. In other cases, moral hazard promotes outright fraud: for example, rebels will attack state officials deliberately intending to provoke retaliation against their own group’s civilians, to attract international intervention that they deem necessary to attain their political goals. In practice, intervention does sometimes help rebels attain their goals, but usually it is too late or inadequate to avert retaliation against civilians. Thus, the emerging norm causes some genocidal violence that otherwise would not occur (Figure 1).

Even non-military acts to protect human rights link to the moral hazard of fostering rebellion.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

Humanitarian intervention is more common after the Cold War, but its practice is still quite variable. Typically, it only becomes a prospect after nongovernmental organizations prevail on international media to focus on a particular crisis (Bob 2005). Moreover, the likelihood of a specific type of intervention tends to be inversely related to its cost and intrusion on sovereignty: rhetorical condemnation is most common; nonconsensual troop deployment least so. But any type or degree of humanitarian intervention can provide strategic benefit to rebels and raise hopes for more decisive intervention—especially if there is precedent for such decisive action in recent or nearby cases (Crawford 2005)—so even nonmilitary forms exacerbate moral hazard.

States are generally more likely to violate human rights when rebels enjoy popular support.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

The state response to rebellion depends on many factors, including perception of the rebel threat and expectations about humanitarian intervention. Historically, states are much more likely to resort to atrocities in war when facing guerrillas who enjoy popular support. Indeed, since 1945, Valentino et al. (2004) find that states are 18 times more likely to perpetrate “mass killing” when the level of guerrilla threat and the level of popular support for guerrillas increase from moderate to high. Yet, this response is not inevitable; in at least two cases, states conceded to popular guerrillas rather than perpetrate mass killing.

Sovereign states that violate rights anticipate possible intervention and use violence accordingly.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

The prospect of humanitarian intervention may affect a state’s response to rebellion, depending on expectations about the credibility, decisiveness, and speed of intervention and the threshold of violence that would trigger it. These expectations in turn stem from the actions of potential interveners—their general policies, specific threats, and track record of past intervention. If states perceive a credible threat of decisive intervention, they may have either of two opposite strategic reactions. In some instances they constrain their violent response below the threshold expected to trigger intervention, and deny responsibility for any violence against civilians (typically blaming nonstate actors), in an attempt to forestall intervention. At other times, however, states intensify their violent response to eliminate the rebellion before potential interveners can react decisively (Wagner 2005, 243–244). States also can be driven by factors other than strategic interest, such as domestic politics, which may be immune to expectations about intervention.

Quick interventions to protect human rights are impossible given global demand and capacity.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

The Balkans cases give rise to a number of potential prescriptions to mitigate genocidal violence, but some of them prove impractical. One option, touted by some proponents of humanitarian intervention, is to quickly intervene militarily in every instance of such violence, to physically curtail it in the short run and deter its incidence in the long run. But this is impossible given the shortfall in global capacity for intervention relative to potential demand. The 1990s alone witnessed major civil violence in at least 16 areas, some on multiple occasions: Albania, Algeria, Angola, Azerbaijan, Bosnia, Cambodia, Congo Republic, Croatia, Ethiopia, Liberia, Kosovo, Sierra Leone, Somalia, Sudan, Tajikistan, and Zaire. Intervening in all of them would have required simultaneous deployment of hundreds of thousands of troops—far exceeding the world’s capacity to project force.⁵⁴ Moreover, by the logic of moral hazard, each intervention raises expectations of future ones, encouraging still more rebellion that may provoke violence and further overwhelm the capacity for intervention.⁵⁵

Attempting to protect human rights by threatening to prosecute leaders through the International criminal court is unlikely to deter oppressive leaders.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

Another option to deter genocidal violence is the threat of prosecution (Akhavan 2001), which is one goal of the recently established International Criminal Court. But this approach has two logical flaws. First, such violence is often ordered by state leaders in response to rebellion that they perceive to be an imminent threat to the state (and to their own survival), so they are unlikely to be deterred by the lesser threat of possible capture by international authorities and prosecution in an international court that excludes capital punishment. Second, because the ICC currently rules out amnesty or plea bargains, its indictments in ongoing conflicts prevent these from being used as incentives for perpetrators to desist, and thereby actually may perpetuate genocidal violence. As demonstrated by the first ICC case, against leaders of the Lord’s Resistance Army of northern Uganda, only the offer of amnesty is likely to deter ongoing violence after an indictment has been issued (Alam 2007).

The moral hazard of sparking rebellion is not limited geographically.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

But the recent case of Darfur, in northwest Sudan, demonstrates that the scope of moral hazard is widespread and persistent (Belloni 2006; Dealey 2004; Johnston 2007; Kuperman 2004d). In 2003, militants from Darfur’s African tribes launched a rebellion that had little hope of success on its own, in light of Khar- toum’s superiority in resources and its alliance with local Arab militias. Sudan’s government responded predictably, as it had to previous rebellions in the country, by deploying its army and local militias to Darfur to conduct ethnic cleansing that within months displaced over two million civilians and left tens of thousands dead. Despite this, most of Darfur’s rebel factions rejected a 2006 peace agreement in which the government offered marginal concessions. By all accounts, the rebels have been emboldened by two factors: the success of a previous rebellion in southern Sudan, which spurred humanitarian intervention (including sanctions against the government and assistance to the rebels) that compelled Khartoum to make major concessions; and mounting humanitarian intervention in Darfur (including sanctions against Khartoum, deployment of international troops, and ICC indictments). This indicates that moral hazard persists, even outside the Balkans and after 9/11, which compels an exploration of ways to mitigate the problem.

Limiting interventions to the most extreme abuses would reduce the moral hazard of sparking rebellion.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), “The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans,” *International Studies Quarterly* (2008) 52, 49–80

To reduce moral hazard, potential interveners could modify their recent practice of humanitarian intervention in at least four ways (Table 2).⁵⁶ Most controversially, in a deviation from the Responsibility to Protect, they could eschew most forms of humanitarian intervention in the event of rebellion unless state retaliation were grossly disproportionate, and instead provide only the most basic necessities to civilians. The international community still could engage in more robust intervention if states sponsored large-scale massacres against civilians, but not in the event of the smaller-scale collateral damage that typically results from counter-insurgency operations against rebels who use civilians as human shields. Consistent with this policy, if rebels abandoned violence and began disarming, states would be expected to reciprocate the cease-fire, or again be subject to intervention. For example, when Belgrade conducted counter-insurgency against the KLA in 1998 that stopped the rebellion at the cost of a few hundred lives, mainly rebels and their supporters, the international community could have refrained from intervention unless the KLA abandoned violence and Belgrade refused to reciprocate. Such a policy would encourage moderation on both sides: substate actors would be discouraged from launching or perpetuating rebellions, especially where uncertain of victory and vulnerable to retaliation, while states would have greater incentive to avoid gratuitous violence against civilians.

The US isn't need to protect human rights because the international community could devote considerable resources to encouraging states to address the needs of aggrieved groups within their community.

Alan J. Kuperman (a professor in the Lyndon Baines Johnson School of Public Affairs at U. of Texas in Austin, former legislative director for Senator Charles Schumer and a fellow at the U.S. Agency for International Development), "The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans," *International Studies Quarterly* (2008) 52, 49–80

Second, because restraint on intervention would reduce the ability of aggrieved nonstate actors to gain relief via rebellion, the international community could devote considerable resources to enticing or coercing states to address the legitimate grievances of nonviolent groups. For example, substantial financial incentives—aid, trade, and membership in international institutions—could be offered to states willing to eliminate discrimination. This shift in resources would reverse the perverse incentive that has been created by the recent practice of humanitarian intervention, which rewards militants with intervention but virtually ignores pacifists, thereby encouraging violence. In some cases, the international community might even lure entrenched dictators from office by offering "golden parachutes"—monetary rewards, asylum, and immunity from subsequent prosecution—if forgiving past crimes is the price of preventing future ones. Such a change from recent practice would arguably be consistent with the Responsibility to Protect, which calls for preventive diplomacy to avert violence.

Affirming will deplete US resources.

Doug Bandow (senior fellow at the CATO Institute), "Force: The Real 'F' Word," *Anti-War.com*, December 13, 2008

War seems so simple. Take the tragic case of Zimbabwe, suffering under the odious Robert Mugabe. The economy is collapsing; people are starving; disease is spreading. When the people tried to vote him out of office, his thugs brutalized everyone in his way. All that matters to him is retaining power. What to do? "Has anyone in that part of the world thought of the 'f' word – force," asks the *Washington Times*? It's easy to think about. Indeed, if the people thinking about the "f" word had their way, the US, and some of its allies, would be very, very busy. There would be intervention to remove Mugabe from power (it would have to be the West, since no one "in that part of the world" has the capacity to easily occupy Harare). There would have been an invasion of Burma, to forcibly provide assistance after the recent typhoon and probably enforce regime change as well. There would be intervention in Sudan to stop the killing around Darfur, and perhaps to march on Khartoum. There would be a "peace-keeping" force for Congo to end what is in fact a regional war. There would have been intervention to save Lebanon from Syria's grasp, perhaps even seizing Damascus along the way. And there would be another effort in Somalia, tossing out the Islamists, suppressing the warlords, killing the pirates, and recreating the Somali state. In short, if one thinks seriously about the "f" word, a very full agenda awaits America.

The results of humanitarian intervention can be can be much more costly than people predict.

Doug Bandow (senior fellow at the CATO Institute), “Force: The Real ‘F’ Word,” Anti-War.com, December 13, 2008

The "f" word seems like the simple answer. Just intervene and fix the problem! Oppressed peoples will throw flowers and candies at their liberators, ethnic, religious, and political differences will dissolve, and the lion will lie down with the lamb. Unfortunately, however, humanitarian intervention rarely seems to work out that way. War is the most brutal instrument, designed to kill and destroy, difficult to control, and unpredictable in consequence. Even granting a genuine desire to help – an objective often secondary among presidents and prime ministers, and defense secretaries and foreign ministers, no matter how well-intentioned they declare themselves to be – the means is ill-suited to the end. God is better able than governments to bring good out of so much ill. Exhibit number one is Iraq, of course. The recent drop in violence is significant precisely because it reflects a reduction in extraordinary levels of murder and mayhem. The unnecessary US invasion and botched occupation turned much of the country into a charnel house. Estimates of the number of dead Iraqis starts in the tens of thousands and runs up to a million or more. Even more have been injured, and several million Iraqis have been forced from their homes, many into foreign exile. Iraqi society has been brutally torn asunder. The nation may eventually heal, though how completely and how quickly remain unclear. But the consequences of the supposedly simple act of removing a reviled dictator turned out to be far more complicated and costly than the enthusiastic ivory tower advocates of war suggested.

Very few humanitarian interventions have proven successful and many have been disasters.

Doug Bandow (senior fellow at the CATO Institute), "Force: The Real 'F' Word," Anti-War.com, December 13, 2008

Few of the other cases of intervention for humanitarian purposes, broadly conceived, worked very well. Ronald Reagan's 1983 insertion of US military forces into the violent maelstrom known as Lebanon, where an estimated 25 different factions had been battling for years, was the worst decision of his presidency. Using the U.S.S. New Jersey to bombard Lebanese hillsides merely highlighted America's impotence: Washington was incapable of suppressing military conflict or effecting a political settlement. In 1994 the US threatened to invade Haiti to restore Jean-Bertrand Aristide, a violent but admittedly popular demagogue, to power. Haiti continued to languish in poverty and brutality. Ten years later Washington orchestrated Aristide's ouster, followed by a new military occupation. Bombing ethnic Serbs helped stop the conflict ravaging Bosnia – which, however, would have ended almost before it started had Washington not pushed the Bosnian Muslims to reject the Lisbon accord in 1992. The result was years of horrific war costing tens of thousands of lives. Now Paddy Ashdown, who served as the EU- appointed High Representative for Bosnia, and Richard Holbrooke, who negotiated the Dayton Accord ending the war, warn that the artificial Bosnian state, preserved with so much blood, is in danger of breaking up. The allied victory in Kosovo led to two waves of ethnic cleansing by the ethnic Albanians, America's supposed allies, against Serbs, Roma, non-Albanian Muslims, and Jews. The nominally independent government in Pristina, dependent upon Western largesse for its survival and run by former guerrillas once termed "terrorists" by US officials, is widely seen as a black hole of regional crime and possibly Islamic radicalism. NATO's aggressive war against Serbia offered Russia a perfect precedent and pretext for Moscow's attack on Georgia in August. President Bill Clinton famously turned a feeding mission into a warlord-hunting campaign in Somalia, with disastrous results. A foolish raid into the heart of Mogadishu cost 18 Americans and an estimated thousand Somalis their lives. The American people exclaimed "what the f***!", and the intervention was effectively over. Ethiopia's more recent intervention, backed by Washington, has cost thousands more Somalis their lives and generated as many as a million refugees – while leaving the country in chaos.

Often the victims we are trying to help suffer the most from intervention efforts.

Doug Bandow (senior fellow at the CATO Institute), "Force: The Real 'F' Word," Anti-War.com, December 13, 2008

There's no reason to believe that campaigns in Sudan, Congo, Zimbabwe, Somalia, Burma, Lebanon, or any of the other potential targets of the "f" word would turn out any better. The desire to reach out and resolve horrendous conflicts and clean up terrible killing fields is laudable. But while war invariably transforms societies, the results usually end up far worse than intended. And those at the receiving end of America's supposed good intentions, such as so many innocent Iraqis, usually suffer the most.

Members of our armed services should not be sacrificed altruistically.

Doug Bandow (senior fellow at the CATO Institute), “War.com, December 13, 2008
Force: The Real ‘F’ Word,” Anti- War.com, December 13, 2008

Moreover, the US government should not be risking the lives of its own people, those serving in the armed services, as well as those put at risk by the blowback that so often follows military intervention overseas, without something substantial at stake for their own society. Servicemen and women are not gambit pawns to be sacrificed in some global chess game. War is murder and brutality writ large, something sometimes necessary in self-defense, but never an appropriate tool for attempted social engineering in other nations.

The US government’s primary obligation is to its citizens, including those in the armed forced.

Doug Bandow (senior fellow at the CATO Institute), “The Painful Death of Humanitarian Intervention,” Anti-War.com, November 04, 2006

The challenge is particularly important in terms of U.S. government policy. The lives of Americans are of no greater moral value than those of other people. However, Washington is responsible to its own citizens: they fund its operations, man its military, are accountable for its actions, and expect its protection. The nation-state’s responsibility to guard their interests includes the lives of its fighting men and women. They are not pawns to be sacrificed in a global chess game, and their lives should not be forfeit when policymakers, especially those happily insulated from the rigors and risks of combat, seek to promote objectives largely irrelevant to the interests of the Americans whose protection is the fundamental objective of government.

Blocks

Affirmative Blocks

Affirmative answers to (A/T) common negative arguments

A/T State sovereignty necessary for international stability.

1. **The majority of global conflicts and instability are specifically over borders.** Ewan Anderson, Professor of Geopolitics, University of Durham, JOURNAL OF STRATEGIC STUDIES, June/September 1999, p.126 Furthermore, it is axiomatic that in any boundary settlement there must be the involvement of at least two states. Thus, given their significance in defining the territorial integrity and the limits of sovereignty of the state, it is hardly surprising that a high proportion of global flashpoints can be related to boundaries. The 1998 Chart of Armed Conflict indicates 19 current international territorial and border conflicts. For example, Ethiopia has active conflicts on three of its five international boundaries, namely those with Sudan, Eritrea and the Somali republic.
2. **The system of borders legitimizes violence ensuring instability.** Anuradha Chenoy, Professor, School of International Studies, Jawaharlal Nehru University, INTERNATIONAL STUDIES, 2000, p.25. In a nationalist hierarchy, everyone (man, woman, native, foreigner, class, and caste), has a fixed place. Nationalism obfuscates the pluralities and particularities that differentiate people on the basis of gender, ethnicity, class, caste, region, etc. Exploitative and unjust social relations are papered over the myth of nationalism which legitimizes the state system in which violence is used as the ultimate arbiter of social conflicts. While internal differences are masked, the assumption of external differences is highlighted and codified. Spike Peterson, Walker, and others regard, this as a trade-off between internal/unity/reason/politics and external/difference/irrationality/war. Externally, militarism emerges as states consolidate and defend boundaries, construct sovereignties and legitimize the maintenance of the state system whose essence is violence.
3. **Global solutions require restrictions on sovereignty.** Errol Harris, Professor of Philosophy, Northwestern, ONE WORLD OR NONE, 1993, p.53 But the crucial matters are those affecting peace and war, which inevitably involve vital interests, and global problems are not minor but impinge directly on, and frequently require restriction of, national interests, and these problems are of the utmost weight for the survival of the race. Vital national interests are almost always closely entangled with such issues, provoking the assertion of sovereign rights. Thus, like so much else, matters affecting the environment, no less than those concerning security, become the counters and playthings of power politics. It is for this reason that the solution of global problems cannot be found in the conduct of diplomacy, any more than it can be achieved by the independent action of sovereign states. Where global interests should prevail, national interests ought not to be given preference; but that is what invariably happens in transactions between sovereign states.

A/T: Protecting human rights in other countries will fail.

1. The legitimacy of protecting human rights does not depend upon success.
2. The success of protecting human rights will depend upon the commitment of nations in the US to protecting human rights as they can change methods to ensure success.
3. US intervention to protect human rights has successfully brought peace to places in the past so this argument is empirically denied.
4. The US could be successful simply by brining the national spotlight on atrocities and pressuring nations to stop.
5. **Simply intervening and deemphasizing borders can be successful because Deemphasizing borders and sovereignty can decrease global violence.** Simon Dalby, Professor of Geography and Environmental Studies, Carleton University, GEOPOLITICS, Summer 1998, p.147. But tragically, despite the discussions of globalisation and assumptions of new forms of postmodern politics, these acts of resistance often do remain trapped in the linguistic constraints of conventional understandings of geopolitics." Boundaries and identity challenges become fraught with danger when the conventional political understanding of community as inside is contrasted to danger and threat specified as outside a territorially demarcated area. As Appadurai puts it: This incapacity of many deterritorialised groups to think their way out of the imaginary of the nation state is itself the cause of much global violence because many movements of emancipation and identity are forced, in their struggles against existing nation states, to embrace the very imaginary that they seek to escape. Postnational or nonnational movements are forced by the very logic of actually existing nation-states to become antinational or antistate and thus to inspire the very state power that forces them to respond in the language of counternationalism. This vicious circle can only be escaped when a language is found to capture complex, nonterritorial, postnational forms of allegiance.

A/T UN intervention is likely to hurt those they are trying to protect.

1. **This is not true because humanitarian protecting human rights does not necessarily demand violence.** Terry Nardin explains from his article, “The Moral Basis of Humanitarian Intervention” from *Ethics & International Affairs*. He writes, “The principle addresses three aspects of the decision to act on behalf of persons threatened by violence. First, we must ask under what circumstances such action is morally called for. Who should be protected (who is my "neighbor"), and from which harms? Second, who should intervene? Who is the "thou" who is forbidden to stand idly by when another is in danger? And third, what must we do to avoid the charge that we are standing idly by? And what must we not do--what constraints, in other words, must we observe in providing aid? We can use these questions to illuminate the morality of humanitarian intervention. But in doing so we must remember that principles alone cannot determine complex foreign-policy decisions. Moral principles can provide broad goals to guide deliberation, and they prescribe constraints on what choices can be made. But they cannot more precisely determine those goals and choices. Humanitarian action may require anything from ending a massacre to rebuilding a society whose institutions have failed. Deciding which of several morally permissible courses of action to pursue in a particular situation demands judgment and prudence, but this task belongs to politics, not moral philosophy.”
2. The blame for the harm to citizens in the intervention does not fall on the US but on the nations that initiated the violence.
3. In the modern world of high tech militaries, the damage to the innocent can be severely limited.
4. Even if this argument is true, the damage caused by the US is outweighed by the genocide the interventions are stopping.

A/T Affirming leads to imperialism.

1. Imperialism is outweighed by ending human rights abuses.
2. This argument excuses state genocide by simply identifying it as a cultural choice.
3. Many nations who are UN members agree to abide by certain universal human rights so enforcing this is not imperialist if the US enforces it.
4. Intervention and ending human rights abuses frees the citizens of nations to pursue and develop their own cultural identities.
5. **States that do not respect the rights of their citizens will not respect the sovereignty of other states and so they will act imperialistically making imperialism non-unique.**
Vesselin Popovski, "Sovereignty as Duty to Protect Human Rights," UN Chronicle, Vol. 41, December 2004, Questia The realization that human rights are equally important along with territorial integrity presents States with a dual responsibility: external respect for the sovereignty of other States; and internal respect for the dignity and well-being of its people. These two attitudes become integral; the recognition and respect of other States depends on whether they respect their own people. The 1933 Montevideo Convention on the Rights and Duties of States defined the State as a person of international law with the following qualifications: (a) a permanent population; (b) a defined territory; (c) Government; and (d) capacity to enter into relations with the other States. Today, one can complement this definition with a further qualification: the State is internationally recognized upon satisfactory protection of the rights of the people living on its territory.

A/T The price of intervention is too high for the US to intervene.

1. Even if this argument is true, it does not deny the principle of protecting human rights.
2. This is not true as the US can share the burden of human rights protection with other nations through international efforts thereby reducing their costs.
3. Even if this is true, then the reason for not protecting human rights is the cost of human rights protection, not respect for sovereignty, so this argument is a diversion and not relevant.
4. The cost of permitting genocides is worse than whatever it costs to end them because permitting genocides will lead to the loss of millions of lives.

A/T The resolution should not be affirmed because the use of “supersede” is confusing.

1. If you understand the resolution, than it is not confusing and you can affirm.
2. Look to the analysis in my case that explains the meaning of the resolution.
3. Every argument other than this one demonstrates the negative could understand the resolution and denies the argument that the resolution is confusing.
4. Just because the negative is confused by the resolution does not mean that everyone else is.
5. There is no reason why the word “supersede” is inherently confusing and so this argument is simply false.

Negative Blocks

Negative answers to (A/T) common affirmative arguments

A/T National sovereignty is only legitimate if the nation protects human rights.

1. If this is true, no nation has legitimate sovereignty because no nation has a perfect record of rights protections.
2. **Affirming threatens many nations, even those in the UN who consent to human rights protection.** Kenneth R. Himes, "The Morality of Humanitarian Intervention," Theological Studies, Vol 55, 1994, Questia What standard of human rights will be employed in determining whether intervention is justified? Even if we restrict the violations to the dramatic one of arbitrary killings, determining the duration and trend of such killings as well as the degree of government complicity often entails judgments susceptible to partisan manipulation (Donnelly, Stedman). If other human-rights violations will be cited as sufficient to intervene, which violated rights will be included on a priority list? More than fifty of the member states of the United Nations are less than flourishing democracies, and several dozen of these engage in egregious human-rights abuses. Are they all candidates for intervention (Gardner)? Will the inevitable selectivity undermine claims that the motivation for intervention is justice and humanitarian concern?
3. **Even if this is true, a basic non-intervention rule is needed to deter aggression and ensure peace.** Bartram S. Brown, "Barely Borders: Issues of International Law," Harvard International Review, Vol. 26, 2004, Questia These rules, even as they stand today, can best be understood in terms of the human rights they seek to protect. A basic non-intervention rule is needed to discourage aggression and promote the global order and stability essential for the protection and enjoyment of all human rights. But non-intervention is a very state-centered principle. It assumes that national governments alone are responsible for human rights as well as all other matters "internal" to the state. Possible exceptions to the principle become relevant only when states fail to live up to these responsibilities.

A/T Intervention does not have to be violent.

1. This argument is not topical because only violent intervention can violate national sovereignty.
2. Even if this is true, it ignores the probability the some interventions will have to be violent.
3. Even if this is true, disrespecting national sovereignty still creates global instability setting the stage for war and violence.
4. Many allegedly nonviolent actions such as sanctions still have a devastating effect upon the population the sanctions are meant to protect.

A/T The purpose of U.S. foreign policy and international law is to protect interests such as human rights.

1. Respecting sovereignty does protect human rights because it does not allow stronger nations to exploit weaker nations under the guise of protecting human rights.
2. Respecting national sovereignty does protect human rights by deterring aggression between countries.
3. **Even if this is true it does not justify intervention because the consequences of humanitarian intervention are highly uncertain.** David Wippman, “Defending Democracy Through Foreign Intervention,” *Houston Journal of International Law*, Vol 19, 1997, Questia Finally, the benefits of coercive intervention are often uncertain. Some scholars, relying on arguments associated with political philosopher John Stuart Mill, claim that democracy cannot be imposed from without, and that attempts to do so are counterproductive.(134) In this view, the citizens of the state must earn their freedom if it is to be meaningful.(135) Recent experience, however, suggests that the consequences of intervention are variable. In some cases, democracy, or at least multiparty electoral politics, can be furthered, if not imposed, by external intervention. In other cases, however, intervention may make a bad situation worse.

A/T National sovereignty is an anachronism in a continually more globally connected world.

1. This argument is empirically denied as borders and sovereignty are still the guiding principle the geopolitical world.
2. Even if this is true, the US still respects state sovereignty in some instances, and thus this argument is not
3. Just because enforcing certain laws is problematic in a global world does not mean that the concept of national sovereignty should be rejected.
4. Enforcing international law is even more problematic than enforcing national laws.
5. A system of international law would rely upon a state system of borders to enforce jurisdiction which is no different in effect than the system that exists now.
6. The peoples of given nations have expressed their desire for national sovereignty and so this argument is anti-democratic.

A/T The concept of borders leads to violence and abuse.

1. National sovereignty is a system created to end endless cycles of violence and abuse that existed prior to World War II.
2. Affirming will lead to violence and abuse as nations no longer need respect the sovereignty of other nations.
3. Sovereignty and borders lead to stability, peace, and cooperation between nations.
4. Violence is caused by racism, hatred, and lust for power, not borders.
5. This argument is making a fallacious cause and effect argument as simply because violence and borders co-exist does not mean one causes the other.

A/T: The benefits of ending genocides outweigh any potential diminishing of national sovereignty.

1. This is not true because there is no guarantee the US will stop genocide through acting to protect human rights.
2. This is not true because affirming creates a world where the US can exploit weaker ones ensuring more violence.
3. As horrific as genocide is, it is better to keep it contained than allow it to spread through global intervention and violence.
4. Genocide is not topical because one can uphold national sovereignty while allowing exceptions to end genocides.
5. Affirming creates a vague rule ensuring intervention will not simply take place to end genocides but for any level of abuse.

Rebuttal Overviews

First Affirmative — Kant 1AR

The thesis of the case is that U.S. foreign policy must be constrained by principled moral action based on prioritization of moral goods; human rights is an intrinsic good, or inherently valuable, whereas state sovereignty is merely an intrinsic good; a means to achieving other ends. Thus, in US foreign policy conduct, the protection of human rights ought to supersede state sovereignty. The value is morality because “ought” in the resolution; this LD debate; and Kant(1) explains ought has a moral connotation. Moral obligation applies to human decisions, even governmental decisions, and must be applied in the conduct of US foreign policy. <My opponent argued _____ but this is wrong because _____> The criterion is consistency with the categorical imperative, as explained by Kant(2) through (5). My opponent doesn’t specifically argue the logic of this evidence, but argues only that _____ but this is wrong because _____>

Extend contention I, this is my offense: it shows that human rights treat humans as ends in themselves; and treating people as means is not consistent with the categorical imperative. <My opponent argued _____ but this is wrong because _____>. Thus, you can affirm here.

Extend contention II: Brauhm shows sovereignty is merely an instrument to achieving self-governance which is not an end in itself. <My opponent argued _____ but this is wrong because _____> Extend subpoint B: Kant(6) explains that the benefits and disadvantage of an action do not determine morality; the reasoning is that all consequential benefits or disadvantages can be achieved through other means. Cross apply this to the negative case to show why sovereignty is only a means to an end; the ends are the harms the negative claims. This means I access the negative case because we can achieve results through many means; they are not unique to state sovereignty. <My opponent argued _____ but this is wrong because _____> Thus, the negative case does not uniquely negate so you can vote on a risk of offense out of my first contention.

Second Affirmative Case—International Law: 1AR

My thesis is that in the conduct of U.S. foreign policy, international law requires human rights protection over state sovereignty. Extend my value of justice, based on “ought” and my five reasons for preferring legal obligations and legal justice over morality and moral justice: (1) the topic doesn’t say moral; (2) “ought” doesn’t require a moral definition; (3) “ought” requires only an obligation, which can be legal; (4) legal education is better because more debaters end up lawyers than moral philosophers; and (5) I provide fair ground by provided legal debate. <My opponent argued _____ but this is wrong because _____>

Extend my criterion of consistency with international law. Pittman explains the U.S. has accepted obligations of international treaties and is bound by international law, so it is a source of legal obligations. <My opponent argued _____ but this is wrong because _____>

Extend Contention 1: President Carter explains the US bound itself to the UN declaration on human rights creating legal obligations to prefer human rights over sovereignty. <My opponent argued _____ but this is wrong because _____>

Extend Contention 2: the Levin Institute card shows that sovereignty is basically meaningless as a legal concept because internal issues are becoming international issues giving rise to international concerns that give other countries a legal right to be concerned about internal affairs. <My opponent argued _____ but this is wrong because _____>

Extend Contention 3: The Exeter ’14 card says there are no harms to violating state sovereignty because states violate their own sovereignty by consent when they sign international treaties like those of the UN. <My opponent argued _____ but this is wrong because _____>

Thus, I’m winning a risk of offense; the negative doesn’t disprove the legal obligation; and the moral considerations are not preferable in the context of this resolution to legal obligations so you affirm.

First Negative Case—Consistency NR

Extend my value of consistency, defined as “conformity in the application of something, typically that which is necessary for the sake of logic, accuracy, or fairness.” Extend you prefer this to the AC value: (1) logical consistency is better in the context of interscholastic debate; (2) accuracy: you can prefer this value to less accurate descriptions of morality and justice; and (3) fairness: this means I access morality and justice values because you cannot have morality or justice without fairness. Extend the criterion must be promoting consistency in U.S. foreign policy.

Extend my first point: Lagon 2011 shows promoting human rights protections undermines consistency in U.S. foreign policy conduct. Lagon gives empirical examples of Spanish-American War through the Vietnam War how US has been inconsistent in trying to protect human rights. <My opponent argued _____ but this is wrong because _____.> My offense links to my criterion by showing that we can respect sovereignty by just doing nothing everywhere, instead of doing something here and not there. So you can negate here.

Extend my second point: the Princeton University Press card shows the U.S. lacks the resources to consistency enforce all human rights everywhere in its conduct. The warrant is that we have limited resources; we can't fight for human rights everywhere necessarily resulting in inconsistencies, so you can negate here. <My opponent argued _____ but this is wrong because _____.>

First Negative Case—Sustainable Foreign Policy NR

Extend my value of sustainable foreign policy. Extend that you prefer my value: (1) logic: unsustainability policy is self-defeating and illogical; prefer logic in the context of interscholastic debate; (2) obligation: the US government owes it to the people to be sustainable, otherwise cannot protect human rights or our own sovereignty at home; and (3) sustainable foreign policy is necessary to morality or justice because if we are not sustainable, then by definition, we will be destroyed; if we are destroyed we cannot act to achieve morality or justice. <My opponent argued _____ but this is wrong because _____.>

Extend that the criterion logically must be promoting sustainability in U.S. foreign policy. <My opponent argued _____ but this is wrong because _____.>

Extend the first New York Times 2012; the U.S. is moving away from international intervention because it is unsustainable. This provides me uniqueness to show that the US has already committed to more sustainability by ditching enforcing international human rights everywhere because it's an unsustainable practice. <My opponent argued _____ but this is wrong because _____.> This provides me offense to my standard of sustainability so you negate.

Extend the second New York Times card: the US does not need to police the world to protect human rights; it's unsustainable. The warrant is that the US lacks resources to enforce human rights protection everywhere; it gives the example of China and that we don't need to be concerned about rights abuses everywhere. <My opponent argued _____ but this is wrong because _____.> This provides me offense to my standard of sustainability so you negate.

AFF 1 – KANT

The thesis of my case is that U.S. foreign policy must be constrained by my principled moral action based on prioritization of moral goods; human rights is an intrinsic good, or inherently valuable, whereas state sovereignty is merely an intrinsic good; a means to achieving other ends. Thus, in US foreign policy conduct, the protection of human rights ought to supersede state sovereignty.

I value morality.

“Ought” in the resolution indicates the existence of an obligation, according to the American Heritage Dictionary 2014. In the context of LD Debate, we should look at “ought” as having a moral connotation. The moral connotation is rooted in the resolution’s use of the word “ought.”

x. Immanuel Kant,

The U.S. government is subject to morality. The U.S. is a government of the people who act through elected officials in determining foreign policy conduct and thus the U.S. is constrained by moral imperatives in its foreign policy conduct. Kant(2):

My criterion is to accept U.S. foreign-policy conduct only if it is consistent with a categorical imperative.

First, a categorical imperative is one that is a duty in all circumstances; there are no exceptions, and thus, the duty or “imperative” is “categorical” because it applies in every category, in every instance without exception.

Kant(2):

Second, Kant distinguishes the categorical imperative from hypothetical imperatives.

Kant(3):

Kant(4) gives examples of instrumental goods giving rise to hypothetical imperatives:
Intelligence, wit, judgment, and the other talents

Third, human beings are ends in themselves and should never be treated as a means to an end; however, human being’s happiness is only an instrumental to treating each person with respect and thus promoting one’s happiness is **not** a categorical imperative. Kant(5):

Contention I: Protection of Human Rights treats human beings as means in themselves and achieves the categorical imperative.

x. U of Minn HR Resource Center

Contention II: State sovereignty is merely a means to an end and thus is only a hypothetical imperative.

- A. Sovereignty is the idea that protects governments from outside intrusion; this protection is merely a means to self-governance, which might be good or it might be bad based on the circumstances. Because the benefits of sovereignty are always circumstantial, they are not categorical. Eric Brahm 2004
- B. The benefits of sovereignty can be achieved by other means, and thus are not unique to the negative side. Kant(6):

AFF 2—INTERNATIONAL LAW

The thesis of my case is that in the conduct of U.S. foreign policy, international law requires human rights protection over state sovereignty.

I value justice. “Ought” in the resolution indicates the existence of an obligation, according to the American Heritage Dictionary 2014. Legal obligations are more valid than moral obligations on this topic: (1) the topic wording does not expressly use the word “moral obligation” or otherwise indicate morality; (2) definitions of the word “ought” are broad and do not specifically require a moral obligation; (3) the topic is about U.S. foreign policy, which is necessarily constrained by domestic law, the U.S. constitution and federal regulations, as well as international law; (4) legal education is better than moral education, as more debaters end up being lawyers than moral philosophers; and (5) legal approaches to this topic provide fair ground because there is enough debate over the meaning, value, and precedence of international law.

The criterion is consistency with international law. By the very words of our U.S. Constitution, treaties bind the United States to legal obligations to international law. Pittman, lawyer for the federal judiciary, 2012:

Contention I: The US has accepted the Universal Declaration of Human Rights as international law. Former President Jimmy Carter explained when this happened in 1992:

Contention II: The concept of globalization is diminishing the legal importance of state sovereignty because what a state does in its own borders frequently has international effects giving rise to international legal interests. The Southern University of New York Levin Institute’s article from 2014 explains

Contention III: States consent to having their sovereignty violated for human rights protection, therefore, any negative impacts won't happen. The Exeter 2014

NC—CONSISTENT FOREIGN POLICY (FOPO)

I value a consistency. Consistency is “conformity in the application of something, typically that which is necessary for the sake of logic, accuracy, or fairness,” according to the Oxford Dictionary 2014.

(1) it is necessarily more logical, which is preferable in the context of interscholastic debate; (2) it tends to be more accurate, which means you can prefer this value to less accurate descriptions of morality and justice; and (3) fairness, which access morality and justice values because you cannot have morality or justice without fairness.

Logically, the criterion must be promoting consistency in U.S. foreign policy.

First, promoting human rights protections undermines consistency in U.S. foreign policy conduct.
Mark P. Lagon, 2011

Second, the U.S. lacks the resources to consistency enforce all human rights everywhere in its conduct.
Princeton Press 2014

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Sovereignty / Human Rights

V = sustainable foreign policy,

(1) it is necessarily more logical because foreign policy that cannot sustain itself is self-defeating and illogical; prefer logic in the context of interscholastic debate; (2) the US government owes it to the people to be sustainable, otherwise cannot protect human rights or our own sovereignty at home; and (3) sustainable foreign policy is necessary to morality or justice because if we are not sustainable, then by definition, we will be destroyed; if we are destroyed we cannot act to achieve morality or justice.

Logically, the criterion must be promoting sustainability in U.S. foreign policy.

1. One, the U.S. is moving away from international intervention because it is unsustainable. The New York Times 2012

2) The US does not need to police the world to protect human rights; it's unsustainable. The New York Times 2012